

1938 Supplement  
To  
**Mason's Minnesota Statutes**  
1927

(1927 to 1938)  
(Superseding Mason's 1931, 1934, and 1936 Supplements)

Containing the text of the acts of the 1929, 1931, 1933, 1935, and 1937 General Sessions, and the 1933-34, 1935-36, 1936, and 1937 Special Sessions of the Legislature, both new and amendatory, and notes showing repeals, together with annotations from the various courts, state and federal, and the opinions of the Attorney General; construing the constitution, statutes, charters and court rules of Minnesota together with digest of all common law decisions.



Edited by

WILLIAM H. MASON, Editor-in-Chief  
W. H. MASON, JR.  
R. O. MASON  
J. S. O'BRIEN  
H. STANLEY HANSON  
R. O. MASON, JR. } Assistant Editors

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## CHAPTER 26

## Schools for the Deaf and the Blind

**4611. School for the deaf—Who may be admitted, expenses.**

The ordinary laws relating to poor relief have no application to the placing of a deaf girl in the State School for Deaf at Faribault, and the county of residence and not the county of settlement is liable for the maintenance of the child. Op. Atty. Gen., Sept. 3, 1931.

Cost of emergency operation performed on deaf child in state school for deaf is chargeable to municipality in which child has his settlement for poor relief purposes. Op. Atty. Gen., Dec. 12, 1933.

Where minor was admitted to school for deaf from one county and thereafter parents separated and father took up residence in another county, where child visited him in summer time, latter county was liable for support of child, father being indigent. Op. Atty. Gen. (3390), June 11, 1934.

"Residence" means "settlement" under poor laws. Op. Atty. Gen. (339d-1), Sept. 15, 1934.

County in which parent of child committed to state school for deaf has settlement is liable for support of child, whether under county or township system of poor relief. Op. Atty. Gen. (339d), Aug. 29, 1935.

County cannot pay claim for care of deaf minor at a school other than that for deaf at Faribault. Op. Atty. Gen. (482h), June 2, 1936.

Payment by county must be used for pupil while in school and not for pauper relief purposes after pupil has left school. Op. Atty. Gen. (88a-5), June 24, 1936.

**4613. Blind student to receive expenses while at certain schools.**—That any blind person who is, and for five years immediately preceding the making of his application for aid under this act has been, a resident of this state, and who is a regularly enrolled student pursuing any course of study, profession, art, or science in any university, college, or conservatory of music approved by the board of directors of the Minnesota School for the Blind, and in the discretion and under direction of said board, receive a sum or sums of money not exceeding \$300 in any one year, for the purpose of defraying his necessary expenses, including those of a reader, while in attendance upon such university, college, or conservatory, such expenditures to be made from the appropriations for the current expenses of the Minnesota School for the Blind, provided that not more than ten such blind persons shall receive such aid in any one year. ('15, c. 307, §1; Apr. 24, 1929, c. 367, §1.)

**4615. Certain children required to attend.**—Every parent, guardian or other person having control of any normal child between six and twenty years of age, too deaf or unable to make articulate sounds to be properly benefited by the methods of instruction in vogue in the public schools, shall be required to send such child or youth to the School for the Deaf at the City of Faribault, Minnesota, during the scholastic year of that school. Such child or youth shall attend such school year after year, until discharged by the superintendent upon approval of the State Board of Control.

Such Board may excuse attendance when satisfied:

1. That the child is in such bodily or mental condition as to prevent his attendance at school or application to study for the period required.

2. That he is afflicted with such contagious or offensive disease or possesses such habits as to render his presence a menace to the health or morals of other pupils, or for any reason deemed good and sufficient by the superintendent with approval of the State Board of Control.

3. That the child is efficiently taught for the scholastic year in a private or other school, or by a private tutor, the branches taught in the public schools so far as possible.

Any such parent, guardian or other person failing to comply with the foregoing section shall, upon con-

viction thereof before the justice of the peace or other court, be deemed guilty of a misdemeanor, and shall be fined in a sum of not less than five (5) nor more than twenty (20) dollars for the first offense, nor less than ten (10) nor more than fifty (50) dollars for the second and every subsequent offense, with costs in each case. Any person who induces or attempts to induce any deaf or unable to make articulate sounds child to absent himself or herself unlawfully from school, or employs or harbors any such child unlawfully from school, while said school is in session, shall, upon conviction thereof, before justice of the peace, or other court, be deemed guilty of a misdemeanor, and shall be fined in a sum not less than five (5) nor more than twenty (20) dollars for the first offense, nor less than ten (10) nor more than fifty (50) dollars for the second and every subsequent offense, with costs in each case. The principal teacher of every public school in the counties, and the truant officers of the cities of St. Paul, Minneapolis and Duluth, shall, within 30 days before the close of the school year succeeding the passage of this act, and at corresponding period each succeeding year thereafter, furnish the county superintendent of schools or the Board of Education of the cities of St. Paul, Minneapolis and Duluth, as the case may be, with the name, age, sex and address of parent or guardian of all normal children who are too deaf or unable to make articulate sounds to be educated in the public schools between the ages of six and twenty years, inclusive, living within the boundaries of his or her school district and who do not attend school. And the county superintendent of schools, or the Board of Education of the cities of St. Paul, Minneapolis and Duluth, shall certify forthwith the names of all such deaf children, with address of parent, age and sex, to the superintendent of the Minnesota School for the deaf at the city of Faribault.

It shall be the duty of the county attorney to at once prosecute any case of parent or others unlawfully responsible, directly or indirectly, for the failure to place a deaf child or youth in a school for the deaf, when such case shall have been reported to him. So far as the same are applicable all the provisions of this section shall be construed to include children who are too blind or defective of sight to be materially benefited by the methods of instructions in vogue in the public schools, for the purpose of securing their attendance at the state school for the blind. (R. L. '05, §1937A; '07, c. 407, §1; '09, c. 396, §1; G. S. '13, §4150; '17, c. 346, §2; Mar. 27, 1931, c. 92.)

**4616. Duties of state board of control.**

See §3199-60 herein.

**4617. Payments by State Board of Control.**—The State Board of Control is hereby authorized to defray the necessary expenses of the aforesaid work from the appropriation for the current expenses of said board, provided, that in any county of this state now or hereafter having a population of over one hundred fifty thousand (150,000) inhabitants and an assessed valuation of over Two hundred million (\$200,000,000) Dollars, including money and credits, the county board of said county is hereby authorized to defray part or all of the necessary expenses of maintaining said work within said county from the general revenue fund of said county, not exceeding the total sum of Three thousand six hundred (\$3,600) dollars, in any one calendar year, and in carrying on

said work may appoint and employ an assistant to the regular field agent for the blind in said county, who shall work under the direction of said agent in said county. The portion of the salary of said field agent and of any assistant to be paid by said county, shall be fixed by the county board at its first meeting after the taking effect of this act and thereafter at its first meeting in January in each year, and such salary of said field agent and said assistant, shall be paid in the same manner as the salary of other county officers and employees are paid. All necessary expenses of said agent and assistant in carrying on said work in said county, not paid by the State Board of Control, shall be paid by said county board as other

claims against said county are paid. That any and all payments heretofore made under said law by such county are hereby legalized. ('13, c. 488, §3; G. S. '13, §4153; '17, c. 185, §1; '17, c. 346, §5; '21, c. 24, §1; '23, c. 336, §2; Mar. 2, 1933, c. 45, §1; Apr. 29, 1935, c. 307.)

See §3199-60 herein.

#### 4617-1. [Repealed.]

Repealed Apr. 21, 1937, c. 324, §27, post, §3199-89, effective as provided in §3199-87.

The operative effect of this section is suspended during the continuance of payments of federal aid under the Social Security Act [Mason's U. S. Code Anno., title 42, c. 7]. See §3199-62 herein.

## CHAPTER 27

### State Public School

#### 4619. Commitments of school by juvenile courts.

Where indigent children are committed to state public school at Owatonna but are placed on waiting list, parents and, if they cannot pay, village of their legal settlement are liable for support of children. Op. Atty. Gen., June 14, 1932.

#### 4620. State Board of Control to assume guardianship.

Commitment by one county of child having legal settlement in another county binds the committing county for the future care of such child, as an indigent person after its return by the school. Op. Atty. Gen., July 21, 1930.

Minor child retains settlement of mother at time of commitment to state board of control. Op. Atty. Gen. (339d), Sept. 9, 1935.

A child returned from state public school to be committed to state guardianship as feeble-minded is a charge upon county from which he was first committed. Op. Atty. Gen. (840a-6), July 17, 1936.

Upon discharge from guardianship of state board of control on attaining 18 years of age, pauper is resident of county from which committed, and not county where she resided at time of discharge, though such person may gain a settlement in his own right upon sufficient residence. Op. Atty. Gen. (3390-2), Jan. 12, 1937.

Child upon discharge by board of control becomes charge on account of commitment, even though county has township poor system of relief. Op. Atty. Gen. (840a-6), July 15, 1937.

#### 4622. Discharge of child.

Discharge from state public school through error and mistake may be revoked where child is still in school. Op. Atty. Gen. (840a-4), Jan. 12, 1937.

## CHAPTER 28

### Railroads, Warehouses and Grain

#### RAILROAD AND WAREHOUSE COMMISSION

##### 4628. Election, etc.

Control of public utilities in Minnesota. 16MinnLaw Rev457.

History of public utility regulation in Minnesota. 16 MinnLawRev471.

##### 4634. Secretary—Employees.

Moneys credited to "grain inspection fund" are moneys belonging to state which legislature may appropriate any way it sees fit. Op. Atty. Gen., May 16, 1933.

##### 4638. Proceedings before commission—How commenced.

Backus-Brooks Co. v. Northern Pac. Ry. Co. (CCA8), 21F(2d)4, notes under §4700.

Murphy Motor Freight Lines v. W., 191M49, 253NW1; note under §4650.

The position of Superintendent of Waterworks in the city of Eveleth is within this act, such officer not being the head of a department. 179M99, 228NW447.

Commission was without jurisdiction where it acted upon an informal letter from telephone company. Dayton Rural Telephone Co. v. N., 188M547, 248NW218.

##### 4639. Notice to respondent.

Backus-Brooks Co. v. Northern Pac. Ry. Co. (CCA8), 21F(2d)4, notes under §4700.

Failure to comply with the provisions of this section rendered proceeding nugatory. Op. Atty. Gen. (371b-13), May 12, 1936.

##### 4640. Answer.

Backus-Brooks Co. v. Northern Pac. Ry. Co. (CCA8), 21F(2d)4, notes under §4700.

##### 4641. Hearings before railroad and warehouse commission.

Backus-Brooks Co. v. Northern Pac. Ry. Co. (CCA8), 21F(2d)4, notes under §4700.

##### 4644. Complaint that rate is unreasonable—Duty of commission.

Backus-Brooks Co. v. Northern Pac. Ry. Co. (CCA8), 21F(2d)4, notes under §4700.

Murphy Motor Freight Lines v. W., 191M49, 253NW1; note under §4650.

##### 4650. Procedure for appeals to district court from orders of Railroad and Warehouse Commission.

Chi. M. St. P. & P. R. Co., (DC-Minn), 50F(2d)430; notes under §4651.

Where order of Railroad Commission did not affect bus service in Hennepin County appeal to the district court of that county was without jurisdiction. 179M90, 228NW 444.

On appeal from order granting electric railway leave to abandon line, it was error to refuse villages affected opportunity to be heard. Minneapolis & St. Paul Sub. R. Co. v. V., 186M573, 244NW61. See Dun. Dig. 8082.

To become a complainant in a proceeding before the Railroad and Warehouse Commission under Motor Vehicle Transportation Act so as to have an appeal from commission's order go to district court of county of person's residence, a verified complaint, with parties designated as prescribed by §§4638 and 4644, must be filed with commission. Murphy Motor Freight Lines v. W., 191M49, 253NW1. See Dun. Dig. 8082.

Where commission on its own motion instituted proceeding, appeal from order made was properly taken to district court of one of counties wherein appellant was ordered to cease his transportation operations. Id.

##### 4651. Proceedings on appeal—Orders not appealed from.

172M601, 215NW188.

An order of the railroad commission for the separation of grades at highway crossings is prima facie valid, the burden of proof being upon appellant, and the question being a judicial one for determination of whether the order is lawful and reasonable, the suit is of a civil nature and is removable to the federal court by the railroad company though such company initiated the proceedings before the commission, but the city took an appeal and thus assumed the position of a plaintiff in the controversy. Chicago, M. St. P. & P. R. Co., (DC-Minn), 50F(2d)430. See Dun. Dig. 1589, 8082, 8389.

Findings of fact of Railroad Commission are prima facie correct on appeal. 177M136, 225NW94.

On the trial of an appeal from an order of the railroad and warehouse commission to district court, findings of commission are prima facie evidence of facts and its order prima facie reasonable. Minneapolis & St. Paul Sub. R. Co. v. V., 186M563, 244NW57. See Dun. Dig. 8082.

Issue of confiscation as to telephone rates must be submitted to a judicial tribunal for determination upon its own independent judgment as to both law and facts. Western Buse Telephone Co. v. N., 188M524, 248NW220.