

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.



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**6955. Special commissioner to take testimony.**  
179M337, 229NW313.

**6957. Appointment—How long to continue—Impeachment.**

No lawful ballots can be cast for office of sheriff at a general election unless term of incumbent, whether elected or appointed, expires on first Monday of January following such election. State v. Borgen, 189M216, 248NW744.

The provisions of Laws 1929, c. 413, prevail over this section, and a person appointed to fill a vacancy in a village office holds until the expiration of the term, and not merely until the next municipal election. Op. Atty. Gen., Nov. 13, 1931.

Vacancy in office of county commissioner is to be filled by full membership of city council where district lies wholly within city, though only part of council are elected from district, and term of appointee expires at beginning of official year next following next general election. Op. Atty. Gen. (124k), Aug. 25, 1934.

CHAPTER 48

Oaths and Acknowledgments

OATHS

**6963. Oath of office.**

A director of an independent school district who has taken an oath of office need not take a second oath when chosen as treasurer by the members of the school board. 171M376, 214NW258.

A public officer, on conviction of violation of the federal liquor laws, forfeits his office. Op. Atty. Gen., Feb. 10, 1930.

Failure of village treasurer to qualify by filing bonds does not ipso facto create vacancy. Op. Atty. Gen. (456g), Feb. 18, 1937.

**6965. Forms of oath, etc.**

Attorneys suspended for misconduct. 177M203, 225 NW97.

**6967. By whom and how administered.**

List of officers authorized to administer oaths and take acknowledgments and requirements as to attachment of seal stated. Op. Atty. Gen., Mar. 23, 1933.

ACKNOWLEDGMENTS

**6970. Form of certificate.**

Bond of city officer held sufficient to require its acceptance by city council though it contained no provision "for the use of all persons interested" and was executed for surety by "attorney" instead of "attorney-in-fact." State v. City of Eveleth, 196M307, 265NW30. See Dun. Dig. 82.

Probate court reporter need not attach seal to his acknowledgments. Op. Atty. Gen. (346g), May 22, 1935.

A deed written in English language except as to acknowledgment which is in a foreign language, is not entitled to record. Op. Atty. Gen. (373b-9(a)), Jan. 7, 1937.

**6971. Corporate acknowledgment—Evidence.**

State v. City of Eveleth, 196M307, 265NW30; note under §6970. Op. Atty. Gen., March 23, 1933; note under §6967.

**6973. By whom taken in this state.**

Probate court reporter need not attach seal to his acknowledgments. Op. Atty. Gen. (346g), May 22, 1935.

**6979. In foreign countries.**

A deed written in English language except as to acknowledgement which is in a foreign language, is not entitled to record. Op. Atty. Gen. (373b-9(a)), Jan. 7, 1937.

**6981. Execution according to foreign law.**—All deeds and other instruments may be executed and acknowledged in a foreign country in accordance with the laws of the place of execution.

If the instrument be made out of the state, and in accordance with the laws of the place of execution, the fact that it was executed according to such laws, shall be proved as follows:

1. If within the United States, by the certificate of the clerk or other certifying officer of a court of record of the county or district in which the acknowledgment was taken, under the seal of such court, or by the secretary of the state or territory, under the seal thereof.

2. If in a foreign country, by the certificate of an officer of the United States authorized by this chapter to take acknowledgments therein, under his seal of office, if there be one.

3. If there be no such officer of the United States therein, then by the certificate of a counselor or diplomatic officer of any other nation with which the United States has diplomatic relations, in which case, the seal of such consular or diplomatic officer shall be certified by his Foreign Office or by the diplomatic representative of such nation in the United States.

4. Any instrument heretofore or hereafter executed, acknowledged and certified as provided herein, shall entitle such instrument to be admitted and read in evidence in all courts and elsewhere without other proof of execution. (R. L. '05, §2691; G. S. '13, §5748; Apr. 18, 1931, c. 201.)

(1)

If an instrument is executed in accordance with the laws of the place of execution, it is entitled to record in this state, provided there is attached thereto a certificate of the clerk or other certifying officer of the court of record of the county or district so showing. Op. Atty. Gen., Aug. 7, 1931.

**6983. Acknowledgments after expiration of commission—Curative.**

Laws 1929, c. 169, and Laws 1929, c. 214, legalizes acknowledgments taken by person after expiration of term.

CHAPTER 49

Fees

**6987. Fees of clerk of district court.**

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In actions for partition of land or proceedings in assignments for the benefit of creditors, and proceedings under the right of eminent domain, the court, or a judge thereof, may by order from time to time fix the amount which may be charged and collected, which may be in excess of the amounts hereinbefore provided, except, however, no fee shall be allowed the clerk of court for receiving and paying over any money deposited with the clerk of court where the money is paid or deposited by or for the State of Minnesota, pursuant to Mason's Minnesota Statutes of 1927, Section 6546. (As amended Apr. 12, 1937, c. 187, §1.)

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Sec. 2 of Act Apr. 12, 1937, cited, provides that the Act shall take effect from its passage.

Fees earned by clerk of district court, but outstanding on account should be included in the statement. Op. Atty. Gen., Jan. 7, 1932.

Fees received by clerk of district court under section 2097 should be included in the statement. Op. Atty. Gen., Jan. 7, 1932.

Clerk of court paid salary under Laws 1919, c. 229, which specifically excepts real estate tax proceedings, is entitled to fees set forth in §2125 in connection with answers in delinquent real estate tax proceedings. Op. Atty. Gen. (144b-15), July 1, 1936.

(24)

Judgment confessed under §2176-11 is not a judgment to which abstractor or clerk of court must certify as a judgment. Op. Atty. Gen. (520b), Apr. 20, 1936.

Each individual name submitted as part of an entity constitutes a single "judgment debtor." Op. Atty. Gen. (144h-15), Nov. 24, 1936.

(46)

This section applies to a default action to foreclose a real estate mortgage though the action is tried to the court, and clerk's fees are limited to \$4.00. Op. Atty. Gen., Apr. 27, 1931.