

1940 Supplement
To
Mason's Minnesota Statutes
1927

(1927 to 1940)
(Superseding Mason's 1931, 1934, 1936 and 1938
Supplements)

Containing the text of the acts of the 1929, 1931, 1933, 1935, 1937 and 1939 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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hemp or Indian hemp weeds within the state of Minnesota, to be eradicated, except such as are licensed in accordance with the provisions hereinafter for commercial uses. The commissioner of agriculture shall make rules and regulations relating to the most convenient and expedient method of eradicating and destroying such Indian hemp or Indian hemp weeds; and the agents and employes of his department shall have power to enforce the provisions of this act and the regulations issued hereunder, and the commissioner of agriculture or his agents and employes shall have free access at all reasonable hours to any premises to determine whether such Indian hemp or Indian hemp weeds are growing thereon, and to require reports from the owners or occupants as to the presence of such Indian hemp or Indian hemp weeds. (Act Apr. 22, 1939, c. 405, §2.)

10278-13. To notify owner of premises.—In pursuance of the powers hereby granted, whenever the commissioner of agriculture or his agents or employes shall have found Indian hemp or Indian hemp weeds on any premises, it shall be the duty of the commissioner of agriculture, his agents or employes as the case may be, to immediately notify or cause to be notified the owner or occupant of the premises, on which such Indian hemp or Indian hemp weeds are growing to eradicate and destroy such Indian hemp or Indian hemp weeds; such notice to be sent to such owner or occupant in such form as the commissioner of agriculture shall prescribe, and if such Indian hemp or Indian hemp weeds are not destroyed within twenty days after the mailing of such notice, if sent by registered mail, or within twenty days after delivery of such notice, if delivered by messenger, the commissioner of agriculture, his agents or employes, shall destroy or cause to be destroyed such Indian hemp or Indian hemp weeds. Whenever any owner or occupant of land to whom such a notice has been mailed or upon whom a notice has been served, fails and omits to eradicate and destroy any Indian hemp or Indian hemp weeds within the time required by this act, and such eradication and destruction of the Indian hemp or Indian hemp weeds is undertaken or caused by the commissioner of agriculture, his agents or employes, the commissioner of agriculture shall file a verified and itemized statement of the costs of all services rendered in connection with the mailing or serving of the notice and the eradication and destruction of such Indian hemp or Indian hemp weeds on each separate tract or lot of land with the county auditor or with the clerk of the city or the village in which such lands are located; and such statement shall be authority for immediate issuance by such county auditor or clerk of proper warrants to the persons named therein for the amount specified. The amount of such expenses shall constitute and be a lien in favor of the county, the village, or the city as the case may be, against the land involved, and shall be

certified to by the county auditor, the village or the city clerk, and entered by the county auditor on his tax books as a tax upon such land, and shall be collected in the same manner as other real estate taxes are collected. The amount of such expenses, when collected, shall be used to reimburse the county, the village, or the city for its expenditures in this regard. Where the lands involved are located in unorganized territory, the expense of eradicating or destroying such weeds shall be paid by the county auditor out of the general revenue fund of said county, upon the verified and itemized statement of the commissioner of agriculture, and the amount of such payment shall be entered by him on the tax books as a tax on such lands and shall constitute and be a lien in favor of such county against the lands involved, and shall be collected in the same manner as other real estate taxes are collected. (Act Apr. 22, 1939, c. 405, §3.)

10278-14. Growing for commercial purpose—Licenses.—Growing or maintenance of Indian hemp or Indian hemp weeds is permitted only for commercial uses as hereinafter defined. Commercial uses are such adaptations of Indian hemp or Indian hemp weeds as are necessary and proper for the manufacture of rope, sacks, and other sisal hemp products and such other non-injurious commercial products, including the manufacture of batts, yarn, thread, cordage, merchandise, cloth, and such other products as may be made from linen fiber, as have been or may be developed; submitted to the commissioner, and approved by him. The commissioner of agriculture is hereby authorized and it shall be his duty to license and authorize the growing of Indian hemp or Indian hemp weeds when the derivatives thereof are to be used solely for the commercial uses herein defined. Any person desiring to grow Indian hemp or Indian hemp weeds for commercial purposes as herein defined, shall file an application for a license therefor with the commissioner of agriculture, giving a description and the area of land intended to be so used. The commissioner shall issue a license to the applicant for the growing of such Indian hemp or Indian hemp weeds for such commercial uses as are specified in the application and license, and the growing of Indian hemp or Indian hemp weeds, pursuant to the terms of the license issued by the commissioner of agriculture shall be lawful to the extent granted by said license. (Act Apr. 22, 1939, c. 405, §4.)

10278-15. Licensee to notify commissioner.—Any person to whom a license for commercial growing of Indian hemp or Indian hemp weeds, shall notify the commissioner of the sale or distribution thereof, and the names of the persons to whom such Indian hemp or Indian hemp weeds are sold or distributed. (Act Apr. 22, 1939, c. 405, §5.)

10278-16. Violation a misdemeanor.—Any person who shall violate any provision hereof, shall be guilty of a misdemeanor. (Act Apr. 22, 1939, c. 405, §6.)

CHAPTER 100

Crimes Against The Public Peace

10279. Disturbing meetings—Disorderly conduct.

Person picketing residence of foreman of an employer whose employes were on strike, carrying a banner, "A scab lives here" constituted disorderly conduct under city ordinance. *State v. Perry*, 196M481, 265NW302. See Dun. Dig. 2751a.

Conviction of disorderly conduct held sustained by evidence of attempt to pick up girls. *State v. Birdseye*, 198 M231, 269NW459. See Dun. Dig. 2751a.

Conduct is disorderly when it is of such nature as to affect peace and quiet of persons who may witness same and who may be disturbed or provoked to resentment thereby, probable and natural consequences of conduct being important element. *State v. Cooper*, 285NW903. See Dun. Dig. 2751a.

Defendant's conduct in carrying a large banner, some three feet in length, on each side of which was printed the words: "Unfair to Private Chauffeurs and Helpers Union," immediately in front of a private home located in an exclusive residential district, held to justify finding of disorderly conduct in that it was likely to arouse anger, disturbance or violence. *Id.* See Dun. Dig. 2751a.

10280. "Riot" defined.

Strutwear Knitting Co. v. O., (USDC-Minn), 13FSupp 384.

Essential elements of crime of riot are: an assemblage of three or more persons for any purpose; use of force or violence against property or persons, or an attempt or threat to use force or violence or to do any other unlawful act coupled with power of immediate execution;

and a resulting disturbance of the public peace. *State v. Winkels*, 204M466, 283NW763.

The public peace means that tranquillity enjoyed by a community when good order reigns amongst its members. *Id.*

Common purpose can be inferred from circumstances and acts committed. *Id.*

A person may be convicted for riot even though not actively engaged therein when he was present and ready to give support if necessary. *Id.*

In a prosecution for rioting, where defendant's counsel on cross examination asked sheriff to explain his presence at the place of the riot, it was proper to have sheriff tell of events which occurred several days before. *Id.* See *Dun. Dig.* 3233.

In a prosecution growing out of a riot at a store, employees of the store were properly permitted to testify as to their reason for retiring to remote parts of store, and reason for taking a policeman with them when they passed through the crowd. *Id.* See *Dun. Dig.* 3233.

10281. Riot, how punished.

Strutwear Knitting Co. v. O., (USDC-Minn), 13FSupp 384.

10282. Unlawful assembly.

Strutwear Knitting Co. v. O., (USDC-Minn), 13FSupp 384.

10283. Remaining after warning.

Strutwear Knitting Co. v. O., (USDC-Minn), 13FSupp 384.

10285. Combination to resist process.

Strutwear Knitting Co. v. O., (USDC-Minn), 13FSupp 384.

10286. Prize fighting—Aiding—Betting or stakeholding.

Repealed by Act Jan. 28, 1933, c. 7, §17, effective May 1, 1933, so far as inconsistent with the repealing act (§§3260-1 to 3260-18).

Since the enactment of Laws 1915, c. 363, contract for management of prize fighter is not illegal. *Safro v. L.*, 184M336, 238NW641.

10287. Fight out of the state.

Safro v. L., 184M336, 238NW641; note under §10286.

10288. Apprehension of person about to fight—Bail, etc.

Safro v. L., 184M336, 238NW641; note under §10286.

10289. Forcible entry and detainer.

One moving back day following his removal under writ of restitution and using seed and grain belonging to owner is not guilty of trespass but may be prosecuted for larceny and also for unlawful entry. *Op. Atty. Gen.* (494b-20), Nov. 26, 1934.

10290. Aiming or discharging firearms, etc.

Strutwear Knitting Co. v. O., (USDC-Minn), 13FSupp 384.

A landlord who shot windows out of house with shot gun for sole purpose of forcing tenants to move, without intent to hit anyone, could be prosecuted under this section, but would not be guilty of assault. *Op. Atty. Gen.* (494b-4), Aug. 29, 1934.

10291. Use of firearms by minors.

A father who furnished him with the pistol cannot be held liable for an accidental shooting by his son, in the absence of evidence that, because of youth, mental deficiency, recklessness, or other cause, it was unsafe to intrust the son with the weapon, and that the father was chargeable with knowledge of that fact. *Clarine v. A.*, 182M310, 234NW295. See *Dun. Dig.* 4466, 10200.

Since a minor under fourteen can hunt protected game only on home premises of his parent or guardian, he can have a bag limit of game only if it was taken on such premises. *Op. Atty. Gen.* (209g), Sept. 19, 1934.

10299. Language provocative of assault.

Strutwear Knitting Co. v. O., (USDC-Minn), 13FSupp 384.

CHAPTER 101

Crimes Against Property

10302. Misappropriation and falsification of accounts by public officers.

Where a justice of the peace was elected in 1929 and due to the change in date of village elections his term expired and no successor was elected, and during such vacancy he continued to act and collect fines which he refused to turn over to the village, he might technically be prosecuted under §9971, but preferably under §10302. *Op. Atty. Gen.*, Jan. 6, 1932.

10303. Other violations by officers.

City treasurer did not commit an offense under this section by making deposits in excess of collateral securities given by a bank in lieu of a depository bond under §1973-1. 172M324, 215NW174.

10305. Officer interested in contract.—Every public officer who shall be authorized to sell or lease any property, to make any contract in his official capacity, or to take part in making any such sale, lease, or contract, and every employee of such officer, who shall voluntarily become interested individually in such sale, lease, or contract, directly or indirectly, shall be guilty of a gross misdemeanor: provided, however, that any village or city council, town board, or school board, of any town, village or city of the fourth class, otherwise having authority to designate depository for village, city, town or school district funds, of any town, village, or city of the fourth class, may designate a bank in which a member of such board is interested as a depository for village, city, town or school funds of any town, village or city of the fourth class by a two-thirds vote of such board. (R. L. '05, §5032; G. S. '13, §8817; Apr. 20, 1931, c. 212.)

172M392, 215NW673.

Op. Atty. Gen. (90d), July 23, 1934; note under §1096.

Op. Atty. Gen. (90b), July 24, 1934; note under §990.

When the funds are deposited in a bank of which the treasurer, being a member of the school board, is also an officer and stockholder, the exception to the general rule is inoperative. 173M428, 217NW496.

There being no over deposits when the depository banks failed, prior overdeposits or irregularities could

not be proximate or any cause for any loss that may arise from the insolvency of the bank. *County of Marshall v. Bakke*, 182M10, 234NW1. See *Dun. Dig.* 2263b, 2323(77), 2699.

A city treasurer is guilty of malfeasance by depositing city funds in an undesignated bank of which he is stockholder, director, and assistant cashier, and a surety on his bond is liable for money lost through failure of the bank, notwithstanding stipulation in bond relieving surety from liability for loss caused by failure of any bank or other depository, and there is liability under a bond for funds wrongfully deposited during its term, though bank does not fail until afterwards. *City of Marshall v. G.*, 193M188, 259NW377. See *Dun. Dig.* 8000, 8004, 8022.

Where a municipal officer sells to his municipality property within its corporate powers to acquire and use, and same is so acquired and used by it, liability may be enforced quasi ex contractu, but not beyond value of such property to municipality. *Mares v. J.*, 196M87, 264NW222. See *Dun. Dig.* 8004.

Does not prohibit town treasurer from contracting with town. *Op. Atty. Gen.*, Apr. 27, 1929.

Where school district contracts with municipality for library service, member of school board cannot be employed as librarian by the district and municipality jointly, but may be employed by the municipality independent of the contract for library service. *Op. Atty. Gen.*, Sept. 9, 1929.

Does not prohibit school treasurer from depositing funds in bank of which he is stockholder where there has been no designation of a depository. *Op. Atty. Gen.*, Oct. 8, 1929.

Provision in a home rule charter recognizing validity of municipal contract in which officer is interested, if such officer is the lowest bidder, is invalid, in view of this section and Const. art. 4, §36. *Op. Atty. Gen.*, Feb. 10, 1930.

Requiring applicant for dance hall permit to pay expense of patrolling in vicinity of hall to prevent sale of liquor, held not violative of requirement that officers shall not be interested in contracts. *Op. Atty. Gen.*, June 4, 1930.

State may enter into contracts with members of the legislature for architectural service, consulting engineering service, and construction work. *Op. Atty. Gen.*, May 12, 1931, and May 8, 1931.