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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4031-86. County may assume bonds.—Any county wherein any such project or portion thereof is located, may voluntarily assume in the manner hereinafter specified the obligation to pay that portion of the principal and interest of the bonds issued before the approval and acceptance of such project and remaining unpaid at maturity, of any school district or township situated in said county and wholly or partly lying within said project, which portion bears the same proportion to the whole of said unpaid principal and interest as the last assessed valuation, prior to the acceptance of said project, of lands then acquired by the state pursuant to this Act in such school districts or townships bears to the total assessed valuation for the same year of such school district or township. Such assumption shall be evidenced by a resolution of the county board of said county, a copy of which shall be certified to the state auditor within one year after the acceptance of such project; and thereafter, if any of such bonds shall remain unpaid at maturity the county board shall upon demand of the governing body of such school district or township or of the holder of any such bond provide for the payment of the portion thereof so assumed, and such county shall levy general taxes on all the taxable property of the county therefor, or shall issue its bonds to raise such sum as may be needed, conforming to the provisions of law respecting the issuance of county refunding bonds. The proceeds of such taxes or bonds shall be paid over by the county treasurer to the treasurer of the school district or township; provided, however, that no such payments shall be made by the county to such school district or township until such time as the moneys in the treasury of such school district or township together with the moneys so to be paid by said county shall be sufficient to pay in full each of said bonds as each may become due.

In the event that any such county shall fail or neglect so to adopt and certify such resolution, the state auditor shall withhold from the payments to be made to such county under the provisions of Section 3 of this Act, a sum equal to that portion of the principal and interest of such outstanding bonds which bears the same proportion to the whole thereof as the above determined assessed valuation of lands acquired by the State within such project bears to the total assessed valuation for the same year of such school district or township. Moneys so withheld from the county shall be set aside in the State Treasury and shall not be paid to the county until the full principal and interest of such school district and township bonds shall have been paid.

In the event that any such bonds remain unpaid at maturity, upon the demand of the governing body of such school district or township, or the holder of any such bonds, the State Auditor shall issue to the Treasurer of such school district or township a warrant on the State Treasurer for that portion of such past due principal and interest computed as in the case of the county's liability hereinbefore authorized to be voluntarily assumed. All moneys received by any school district or township pursuant to this section shall be applied to the payment of such past due bonds and interest. (Act Apr. 22, 1933, c. 402, §12.)

4031-87. Violation of rules a misdemeanor.—Any person who within the limits of any such project shall wilfully violate or fail to comply with any rule or regulation of the Department of Conservation adopted and promulgated in accordance with the provisions of this Act shall be deemed guilty of a misdemeanor. (Act Apr. 22, 1933, c. 402, §13.)

4031-88. Provisions separable.—This Act shall be held unconstitutional only in the event that some major provisions of the Act are found unconstitutional and invalid that would make the Act unworkable. If any minor provisions of this Act are held unconstitutional it shall in no way affect or invalidate any other provision or part thereof; and this Act shall be deemed workable if Section 5 thereof is constitutional. (Act Apr. 22, 1933, c. 402, §14.)

PUBLIC ASSISTANCE IN TREE PLANTING

4031-89. Assistance in tree planting.—The Agricultural Extension Department of the University of Minnesota is hereby authorized and directed to cooperate with the Secretary of Agriculture of the United States in providing assistance in tree planting to owners of land by the procurement of forest tree planting stock, not including fruit or ornamental trees, shrubs or plants, and in the distribution to planters of such forest tree planting stock at cost, plus transportation and administrative charges, to the end that such planting stock so distributed shall be used for the purpose of establishing windbreaks, shelterbelts and farm woodlots upon denuded or nonforested lands and for protecting farm buildings, crops, and fields from wind erosion, and for furnishing forest cover beneficial to water conservation and bird life. (Act Apr. 21, 1939, c. 385, §1.)

4031-90. Number of trees.—Not less than 1000 trees shall be sold for an individual planting; no trees may be resold by the succeeding purchasers. The term forest planting stock shall be considered to mean one or two year old seedling stock of deciduous trees and 2-2 or 3-2 coniferous trees customarily used for the purposes mentioned above, and such other specifications as may be necessary to ensure successful growth. (Act Apr. 21, 1939, c. 385, §2.)

4031-91. Home grown trees given preference.—In all purchases of forest planting stock under the provisions of this Act, preference shall be given to trees grown in this state by duly inspected Minnesota nurseries, and such purchases shall be paid for out of the fund hereinafter created and accruals thereto from sale of trees purchased. If suitable stock for this purpose cannot be obtained from Minnesota nurseries, it will be permissible to secure such nursery stock from nurseries outside this state. All money received from the sale of trees shall be placed in the State Tree Fund, which said fund is hereby created. (Act Apr. 21, 1939, c. 385, §3.)

4031-92. Appropriation.—The sum of $2,500 for the fiscal year ending June 30, 1940, and the sum of $2,500 for the fiscal year ending June 30, 1941, is hereby appropriated for the payment of the expenses for the carrying out the provisions of this Act. Such funds, together with any funds received from the United States Government for tree planting aid, under the Clark-McNary Act or other acts, shall be placed in the State Tree Fund and shall be expended only as herein previously stated under the direction of the Extension Department of the University of Minnesota. (Act Apr. 21, 1939, c. 385, §4.)

Sec. 5 of Act Apr. 21, 1939, cited, provides that the act shall take effect from its passage.

CHAPTER 23

Department of Labor and Industries

INDUSTRIAL COMMISSION

4039. Hours public sessions—Proceedings.

Any person having an interest present or prospective is entitled to inspect and make copies of orders, suggestions or notices served under 4159, but not report filed under 4197. Op. Atty. Gen. (851j), July 23, 1935.

4041. Secretary—Salary—Duties.

Salary of secretary placed at maximum of $3600 may be fixed under Laws 1935, c. 391, §37, at $3000, notwithstanding that that was the amount he was receiving at the passage of the act. Op. Atty. Gen. (231a), July 19, 1935.

4041-1. Certain Industrial Commission records may be destroyed.—The Secretary of the Industrial Commission of the Department of Labor and Industry of the State of Minnesota hereby is authorized, with the consent and approval of the three commissioners composing the Industrial Commission, to destroy the following files and records of said commission at the times and under the conditions herein specified:

(1) All files, records and correspondence in the office of the Industrial Commission, covering the period prior to June 1, 1921.

(2) All files and records of said commission subsequent thereto, covering the period of one year on June first of each succeeding year. (Act Apr. 8, 1939, c. 149.)

4042. May appoint division heads, assistants, etc.

A chief factory inspector need not pass a competitive examination. Op. Atty. Gen., Dec. 21, 1931.

Industrial commission has power without restriction or restraint to appoint and remove certain designated employes or officials. Op. Atty. Gen., May 10, 1933.

4044. Powers of department of labor and industries transferred to commission.

G. S. 1913, §§3940-3946 are still applicable under this section.

4046. Powers and duties.

* * * * * *

(4). [Repealed.]

Subdivision (4) repealed Apr. 22, 1939, c. 440, §20, post §4254-40.

* * * * * *

Editorial note.—Power conferred on the industrial commission is transferred to the director of employment and security by Act Apr. 22, 1939, c. 431, Art. 7, §2(11)(d), ante §3199-102(11)(d).

State regulations providing minimum wage in excess of that fixed under industry codes under the NRA are controlling. Op. Atty. Gen., Oct. 28, 1933.

Strikes and boycotts—right to picket in non-labor disputes. 19MinnLawRev817.

4048. Qualifications of inspectors.

Op. Atty. Gen., May 10, 1933; note under §4042.

In view of Laws 1921, c. 81, a chief factory inspector need not pass a competitive examination. Op. Atty. Gen., Dec. 21, 1931.

4049. Terms defined.

Section 9193(3), limiting the time to sue for damages, "caused by a milldam," to two years after the cause of action accrues, applies to an action to recover damages for flooding caused by a dam erected by a public service corporation for the purpose of generating electric current to be distributed and sold to the public for lighting, heating and power purposes. Zamani v. O., 182M355, 234 NW457. See Dun. Dig. 5605(79), 5655.

4050. Enforcement of labor laws by labor department.

Industrial commission has power to gather wage data and to examine wage records of adult women. Op. Atty. Gen., June 26, 1933.

4050-1. Industrial commission to make study of conditions.—For the purpose of improving the State employment offices and other employment agencies under its supervision, and to enable it to more efficiently perform the duties imposed upon it, and in cooperation with the federal authorities in an intelligent, long-time employment program, the State Industrial Commission is hereby authorized to make a thorough, comprehensive, scientific and objective study of labor conditions, and to gather and record authentic and scientific data in relation thereto, and in this connection to operate a laboratory experiment or demonstration station or stations. (Act Jan. 29, 1931, c. 5, §1.)

4050-2. May receive gifts.—The industrial commission is hereby authorized to receive and accept gifts or contributions of funds to be used in carrying out the purposes of Section 1 [§4050-1] hereof, and to assist in the supervision and conduct of said study, and to defray, in whole or in part, the cost of said work. (Act Jan. 29, 1931, c. 5. §2.)

4050-3. Supervision of funds.—Any funds or contributions so made shall be under the exclusive supervision and control of said industrial commission, may be deposited in such bank or banks as it may select, and may be disbursed in such manner and for such purposes as said industrial commission shall determine, consistent however, with the provisions of this act and with the conditions and purposes of any such gift or contribution. (Act Jan. 29, 1931, c. 5, §3.)

Sec. 4 provides that the act shall take effect from and after its passage.

ELEVATORS

4052. Lock or fastening device.

One entering dimly lighted office building lobby after elevator service had terminated for night was guilty of contributory negligence as matter of law in further opening elevator door and stepping into shaft without ascertaining whether elevator was at floor, though he relied on custom of leaving shaft door ajar when car was at that door. Murray v. A., 202M62, 277NW424. See Dun. Dig. 7022.

FOUNDRIES

4075. Various definitions.

See §1630-4(12).

HOURS OF, AND RESTRICTIONS ON, LABOR

4087. Ten hours to constitute one day's work, etc.

Employee working over time limits is not particeps criminis. Thibault v. N., 198M246, 269NW466. See Dun. Dig. 5812a.

An adult workman may agree to work in any employment a longer or shorter period than 10 hours each day for any compensation acceptable to him. Id.

Where an adult man agrees to serve as manager of a store at a stipulated weekly salary which is paid at end of each week, he cannot after employment terminates, recover extra pay for time he worked in excess of ten hours a day. Id. See Dun. Dig. 5817.

The Wagner Labor Act cases. 22MinnLawRev1.

4091. Locomotive engineers, etc.—Hours.

Law restricting hours of continuous labor more than do federal regulations prescribed by sections 61 and 62, ch. 3, Tit. 45 of the U. S. Code, is unconstitutional. Op. Atty. Gen., Mar. 21, 1933.

The purpose of House File No. 23 of Special Session of 1932 which would amend §§4091 and 4092 is to regulate intrastate commerce and not interstate commerce, and thus construed would be constitutional. Op. Atty. Gen., Dec. 21, 1933.

4092. Certain railroad employees—Hours.

Op. Atty. Gen., Mar. 21, 1933; note under §4091.

Op. Atty. Gen., Dec. 21, 1933; note under §4091.

4094. Employment of children under fourteen years.—No child under fourteen (14) years of age shall be employed, permitted or suffered to work at any time, in or in connection with any factory, mill or workshop, or in any mine; or in the construction of any building, or about any engineering work; it shall be unlawful for any person, firm or corporation, to employ or exhibit any child under fourteen (14) years of age in any business or service whatever, during any part of the term during which the public schools of the district in which the child resides are in session. ('07, c. 299; '12, c. 8, §1; G. S. '13, §3839; '13, c. 516, §1; Apr. 18, 1929, c. 234, §1.)

No exception in favor of agricultural employment. Op. Atty. Gen., June 21, 1929.

"While school is in session," means hours from 9:00 A. M. to 4:00 P. M. each day and not full school year. Op. Atty. Gen., Apr. 22, 1933.

Section does not prohibit employment after school hours or on Saturdays and holidays. Op. Atty. Gen. (270a-4), Apr. 15, 1935.

4100. Children under 16—Hours of employment—Posted notice.

Op. Atty. Gen., Apr. 6, 1931; note under §§4103, 4106.

The fact that the beneficiaries, the parents of the decedent, violated §§4100 and 4101 does not constitute contributory negligence as a matter of law so as to entitle defendants to judgment non obstante. Weber v. B., 182 M486, 234NW682. See Dun. Dig. 2616(10).

Applicable to agricultural employment. Op. Atty. Gen., June 21, 1929.

The provision of the Street Trades Law, Laws 1921, c. 318, §1, which permits children under 16 to sell papers after 7 o'clock at night, modifies this section. Op. Atty. Gen., Apr. 6, 1931.

The use of children under 16 in hotel entertainment after 7. P. M. is a violation of the Child Labor Law, in the absence of a proper permit from the Industrial Commission. Op. Atty. Gen., Apr. 6, 1931.

Boys employed by an adult to distribute newspapers for the adult cannot be said to be "regularly employed newspaper carriers." Op. Atty. Gen., Dec. 22, 1931.

Children under 16 years of age appearing in singing and dancing acts after 7 P. M., for which father is paid compensation, are engaged in a gainful occupation within meaning of this section. Op. Atty. Gen. (270a-5), Aug. 25, 1934.

4101. Penalties for violation.

Weber v. B., 182M486, 234NW682; note under §4100.

"Whoever" means any person, including a father, who has under his control a child under 16 years of age and who permits such child to be employed without permit in violation of §4100. Op. Atty. Gen. (270a-5), Aug. 25, 1934.

4103. Children under specified ages—Prohibited employments—Penalties.—No person shall employ or permit any child under the age of sixteen (16) years to serve or work as an employe of such person in any *of the following occupations:*

Sewing or adjusting belts used on machinery; oiling or assisting in oiling, wiping, or cleaning machinery; operating or assisting in operating circular or band saws, wood shapers, wood jointers, planers, sandpaper or wood-polishing machinery, emery or polishing wheels used for polishing metal, wood turning or boring machinery, stamping machines in sheet metal and tin-ware manufacture, stamping machines in washer and nut factories; operating corrugating rolls used in roofing factories; operating a steam boiler, steam machinery, or other steam generating apparatus; setting pins in bowling alleys; operating or assisting in operating dough grates or cracker machinery; operating wire or iron straightening machinery; operating or assisting in operating rolling mill machinery; punches or shears, washing, grinding or mixing mill; operating calendar rolls in rubber manufacturing; operating or assisting in operating laundry machinery; preparing or assisting in preparing any composition in which dangerous or poisonous acids are used; operating or assisting in operating any passenger or freight elevator; manufacturing of goods for immoral purposes; nor in any other employment or occupation dangerous to the life, limb, health or morals of such child.

No female under sixteen (16) years of age shall be employed where such employment requires such female to stand constantly during such employment.

No child under the age of eighteen (18) years shall be employed as a rope or wire walker, contortionist, or at flying rings, horizontal bars, trapeze or other aerial acts, pyramiding, weight lifting, balancing, or casting acts, or in any practices or exhibitions dangerous or injurious to the life, limb, health or morals of such child.

No child under the age of ten years, whether or not a resident of this state, may be employed or exhibited in any theatrical exhibition except in the cases hereinafter referred to.

No child over the age of ten years and under the age of 16 years, whether or not a resident of this state, shall be employed or exhibited in any theatrical *entertainment except with the permission* of the Industrial Commission; provided that under a permit hereinafter provided for one or more children under the age of 16 years may participate in a family group with either or both of their parents in instrumental musical performance not prohibited as being dangerous or injurious to the health, life, limb or morals of such child or children and not detrimental to their education; and provided, that under such a permit a child or children under the age of 16 years may participate in legitimate dramatic performances by adults where some part or parts can only be portrayed by a child or children and where no singing, dancing, or acrobatic performance nor any practice or exhibition dangerous or injurious to the life, limbs, health or morals is performed by such child or children.

In the event it is desired to employ or exhibit in any theatrical entertainment a child within the age limits permitted by law, during that portion of the year when such employment or exhibition is permitted, written application shall be made to the Industrial Commission, specifying the name of the child, its age, and the names and residence of its parent or guardian, the nature, and kind of such performances; the dates, duration and number of performances desired, together with the place and character of the exhibition.

Application for any permit under this act shall be made at least 72 hours before the first performance at which it is desired to exhibit such child.

The Industrial Commission shall, through its Division of Women and Children, investigate each application and shall have power to grant a permit for such employment or exhibition not prohibited by law and for any period during which such employment or exhibition is not prohibited by law after it shall first find that the health, education or school work, morals and welfare will not be detrimentally affected by such employment or exhibition or by the environment in which the same is rehearsed or given. Such permit shall specify the name and residence of the child and the nature and date of performances and the number and duration thereof permitted.

The Industrial Commission shall revoke any permit whenever, in its opinion the exhibition of any child in any performance is detrimental to its health, welfare or morals or is interfering with its education.

Nothing contained in this section or in Section 4094, General Statutes 1923, shall prohibit the appearance of any child in an entertainment given by one or more religious or educational organizations or by a neighborhood association of parents of the children who may perform before it or in any recital connected with the teaching of the art or practice of music; but this proviso shall not be construed as authorizing the appearance of any child in any such entertainment at which an admission fee is charged unless the entire program is furnished by and for the benefit of such religious or educational organization or neighborhood association at such recital unless the entire program is furnished by the pupils of the teachers sponsoring the recital.

Any person violating any of the provisions of this act shall be guilty of a misdemeanor. ('07, c. 299; '12, c. 8, §10; G. S. '13, §3848; '13, c.c. 120, 516, §2; '27, c. 388, §1; Apr. 18, 1929, c. 234, §2.)

Op. Atty. Gen., Apr. 6, 1931; notes under §§4100, 4106.

Decedent having met death in an occupation prohibited by law at his age, the case is not within the jurisdiction of the Industrial Commission. Weber v. B., 182M486, 234NW682. See Dun. Dig. 10394(47).

As to the power company, the jury could find that the defense of contributory negligence of the deceased was not established, and such defense was not available to the defendant employer, because of its violation of section. Weber v. B., 182M486, 234NW682. See Dun. Dig. 6000, 6016.

The evidence supports the finding of the jury that negligence of both defendants caused the death of plaintiff's intestate, killed by contact with a wire carrying deadly electrical current—the power company in stringing the wire too close to where employes in the *packing corporation worked, and the latter employing* a boy under 16 in an occupation dangerous to life and limb. Weber v. B., 182M486, 234NW682. See Dun. Dig. 2996, 5859.

"Theatrical entertainment" and "theatrical exhibition" defined. Op. Atty. Gen., Apr. 6, 1931.

The use of children under the age of 16 as entertainment features at a night club would be a violation of the Child Labor Law, unless the children were engaged in a theatrical entertainment under a permit from the Industrial Commission. Op. Atty. Gen., Apr. 6, 1931.

This section does not prohibit children being taught to operate power sewing machines and who pay a tuition. Op. Atty. Gen., Apr. 10, 1931.

This section does not permit the appearance of a child under ten years of age as a singer in a theater wherein the father plays an instrument in the orchestra. Op. Atty. Gen., Aug. 21, 1931.

County and state fairs are not educational organizations within the meaning of statute. Op. Atty. Gen., Aug. 21, 1931.

A dancing exhibition participated in by children under ten years of age and given in connection with a movie performance in a theater is not to be construed as a "recital connected with the teaching of the art or practice of music," though the exhibition is put on by a dancing teacher and the performers are her pupils. Op. Atty. Gen., Aug. 21, 1931.

A child under ten years of age may participate in a family group in giving an instrumental musical per-

formance providing that a permit is obtained. Op. Atty. Gen., Aug. 21, 1931.

Children under ten years of age cannot appear in a singing and dancing act under the auspices of the Minneapolis Park Board, though no admission fee is charged. Op. Atty. Gen., Aug. 21, 1931.

An ordinary lodge is neither a religious nor educational organization, and a child under ten years of age can only appear at a benefit performance under a permit. Op. Atty. Gen., Aug. 21, 1931.

Does not permit appearance of a movie star of eight years of age on the stage for the purpose of giving a monologue. Op. Atty. Gen., Aug. 21, 1931.

Fact that parent merely accompanies child on the stage is of no legal consequence. Op. Atty. Gen., Aug. 21, 1931.

Boys regularly employed as newspaper carriers are exempt from the provisions of the law only while distributing papers to their regular subscribers, and not at times that they are on the street in their regular districts selling papers. Op. Atty. Gen., Nov. 25, 1931.

Boys employed by an adult to distribute newspapers for the adult cannot be said to be "regularly employed newspaper carriers. Op. Atty. Gen., Dec. 22, 1931.

Both booking agent and operator of night club can be prosecuted for violation of this section. Op. Atty. Gen. (270a), June 27, 1934.

4106. Certain employments forbidden—penalties.—No boy under sixteen years of age and no girl under eighteen years of age shall engage in or carry on or be employed or permitted or suffered to be employed in any city of the first, second or third class in the occupation of peddling, bootblacking or distributing or selling newspapers, magazines, periodicals or circulars upon the streets or in public places; provided, however, that any boy between fourteen and sixteen years of age, upon application to the school authorities as in the case of application for an employment certificate, and upon compliance with all the requirements for the issuance of an employment certificate, shall receive a permit and badge from the officer authorized to issue employment certificates which shall authorize the recipient to engage in said occupations between the hours of five o'clock A. M., and eight o'clock P. M., of each day, but at no other time, except as provided in Section 3 hereof; and, providing further, that any boy between twelve and sixteen years of age, upon application as provided in the preceding section and upon due proof of age and physical fitness in the manner provided by law for the issuance of employment certificates, may receive a permit and a badge from the officer authorized to issue employment certificates which shall authorize the recipient to engage in said occupations during those hours between five o'clock A. M. and eight o'clock P. M., when the public schools of the city where such boy reside are not in session; but at no other time except as provided in Section 3 hereof.

Any person who knowingly and wilfully employs or permits or suffers to be employed any child in violation of this section, or any person who knowingly and wilfully aids or abets any child to violate the provisions of this section shall be guilty of a misdemeanor. ('21, c. 318, §1; Mar. 7, 1933, c. 63.)

Op. Atty. Gen., Apr. 6, 1931; note under §§4100, 4103.

The engagement of a boy under 14 to broadcast for pay on a radio station during school hours is a violation of law. Op. Atty. Gen., Apr. 6, 1931.

Engagement of a boy under the age of 16 as a paid piano player and musical entertainer in a ballroom after 7 P. M. is a violation of law. Op. Atty. Gen., Apr. 6, 1931.

Child selling poppies on street without compensation violates this section. Op. Atty. Gen., June 8, 1933.

Section does not prohibit sale of magazines or periodicals by boys at homes of private individuals. Op. Atty. Gen. (270a-4), Apr. 15, 1935.

4109. Violation of act delinquency—Enforcement.

Op. Atty. Gen., Nov. 25, 1931; note under §4106.

4111. Act not applicable to carriers.

Boys employed by an adult to distribute newspapers for the adult cannot be said to be "regularly employed newspaper carriers." Op. Atty. Gen., Dec. 22, 1931.

4111–1. Employment of minors prohibited.—No person under the age of 18 years shall be employed, permitted or suffered to work, or to appear as a participant, in or in connection with any walkathon, dance marathon or similar contest, night club, beer parlor or other place of like nature or character. (Act Apr. 5, 1935, c. 109, §1.)

A fraternal organization hiring minors under 18 years of age to perform in a ballet in an indoor circus in auditorium on main floor while beer was served in cafeteria on mezzanine floor violated this section. Op. Atty. Gen. (605b-35), Feb. 27, 1936.

Minors under age of 18 cannot work in place where non-intoxicating malt liquors are sold. Op. Atty. Gen. (217f-3), Sept. 24, 1936.

Minors under 18 years of age may not serve non-intoxicating malt liquors in a restaurant. Op. Atty. Gen. (217f-3), July 26, 1937.

This section relates to nonintoxicating malt beverages, while §3200-28 applies to intoxicating liquors. Op. Atty. Gen. (218J-12), June 10, 1939.

Section applies to a place where nonintoxicating malt liquor is sold. Id.

Fact that a minor is a child of the owner does not exempt her from this section. Id.

4111–2. Certain acts a misdemeanor.—Any person who employs, causes or suffers to be employed, or who exhibits, uses, or has in custody for the purpose of exhibition, use or employment, any child under 18 years, or who, having the care, custody or control of any such child as parent, relative or guardian, employer or otherwise, sells, lets out, gives away, or in any way procures or consents to the employment, or to such use or exhibition of such child, or who neglects or refuses to restrain such child from engaging or acting in any occupation prohibited by this section, shall be guilty of a misdemeanor. (Act Apr. 5, 1935, c. 109, §2.)

4111–3. Application of act.—This act shall not apply to participation in any theatrical performance as defined and regulated by Mason's Minnesota Statutes of 1927, Section 4103. (Act Apr. 5, 1935, c. 109, §3.)

4116 to 4126 [Repealed].

Repealed Apr. 20, 1933, c. 354, §7, post, §4126-8, effective July 1, 1933.

These sections have been declared unconstitutional by the attorney general in opinions, abstracts of which are set forth below:

In submitting to the governor for his approval the bill attempting to limit the hours of employment of women, certain amendments in the bill as passed by the senate and house were inadvertently omitted, with the result that the bill as approved by the governor, filed with the secretary of state, and published as Laws 1923, c. 422 (Mason's Minn. Stat., 1927, secs. 4116-4126), was never constitutionally enacted. Op. Atty. Gen., June 25, 1926.

Laws 1923, c. 422 [Mason's Minn. Stat., 1927, secs. 4116-4126], never having been constitutionally enacted, the hours of employment for women in cities of the first and second class are governed by Laws 1913, c. 581 [set forth post as §§4126-½ to 4126-½b], and as to all other cities Laws 1909, c. 499 [set forth post as §§4126-½c to 4126-½h], is applicable. Op. Atty. Gen., May 8, 1931.

4126-½ to 4126-½h. [Repealed].

Repealed Apr. 20, 1933, c. 354, §7, post, §4126-8, effective July 1, 1933.

Annotations under §4126-½.

See notes under §§4116 to 4126.

The only law regulating the hours of women working in lunch rooms is Laws 1913, c. 581, which applies only to cities of the first and second class. Op. Atty. Gen., May 8, 1931.

The phrase "in cities of the first and second class," is not limited to women employed in telephone or telegraph establishments. Op. Atty. Gen., May 8, 1931.

Under Laws 1913, chapter 581, minimum wage commission has no authority to regulate the hours of certain workers of the state outside cities of the first and second class. Op. Atty. Gen., May 8, 1931.

Annotations under §4126-½a.

Sections 3, 4 and 5 of Laws 1913, c. 581, were expressly repealed by Laws 1919, c. 491, §20, set forth in Mason's Minn. Stat., 1927, as §4190.

Annotations under §4126-½c.

See notes under §§4116 to 4126.

4126–2. Hours of female employees limited.—No female shall be employed in any public housekeeping, manufacturing, mechanical, mercantile, or laundry occupation, or as a telephone operator for more than fifty-four hours in any one week; provided that this Act shall not apply to cases of emergency in which the safety, health, morals, or welfare of the public may otherwise be affected, or to cases in which night employees may be at the place of employment for no more than twelve hours and shall have opportunity

for at least four hours of sleep, or to employees engaged in the seasonal occupation of preserving perishable fruits, grains or vegetables, where such employment does not continue over a longer period than seventy-five days in any one year, or to telephone operators in municipalities of less than fifteen hundred inhabitants; provided, however, that upon application of any employer, the Industrial Commission may in its discretion, for cause shown exempt any employer or class of employers from the provisions of this Act.

Provided further, that during emergency periods of not to exceed four weeks in the aggregate in any calendar year, the Industrial Commission of Minnesota may, in its discretion, allow longer period of employment for such female employees under such general rules and regulations as the Commission may prescribe and adopt. (Act Apr. 20, 1933, c. 354, §1.)

General office employes and women executives in a mercantile establishment do not come within classification of a mercantile occupation and are not regulated by maximum of 54 hours per week. Op. Atty. Gen., June 21, 1933.

Hours of women employes other than telephone operators, janitresses and elevator operators in banks and offices are not subject to regulations in this act. Id.

"Public housekeeping" embraces kitchen employes, waitresses and chamber maids in a girls' private school and in an old folks' home. Op. Atty. Gen., Sept. 15, 1933.

4126-3. Industrial commission to print schedule.—The Industrial Commission of Minnesota shall supply the abstract of the provisions of this act and the form for the schedules of hours of labor required for this act to all employers to whom this act shall apply upon application therefor. (Act Apr. 20, 1933, c. 354, §2.)

4126-4. Violations a misdemeanor.—Any employer or any agent acting for an employer who shall require or suffer any such employe to work at any business, establishments or company to which this act applies more than the number of hours provided in this act, or who shall fail, neglect or refuse so to arrange the work of such employes in his employ that they shall not work more than the number of hours provided for in this act during any one week; or who shall knowingly permit or suffer any overseer, superintendent, foreman or forelady, or other agents of any employer to violate any of the provisions of this act, shall be guilty of a misdemeanor and upon conviction thereof shall be fined for each offense in the sum of not less than twenty-five dollars nor more than one hundred dollars. Whenever any person shall have been notified by the Industrial Commission or by the service of a summons in a prosecution, that he is violating any provisions of this act, he shall be punished by like penalty in addition for each and every day that such violation shall have continued after such notification. (Act Apr. 20, 1933, c. 354, §3.)

Duty to prosecute misdemeanors rests on city attorney and not upon county attorney. Op. Atty. Gen. (121b-7), Mar. 19, 1937.

4126-5. Employer to keep record.—Every employer having in his employ more than six female employees shall a keep time book or record stating the number of hours worked by each female employee in his employment on each day of such employment, and the total hours of each week, and the hours of beginning and stopping such work. Such time book or record shall be open to the inspection of the Industrial Commission of Minnesota, or any duly accredited representative of said commission, during any period of employment. Any employer who wilfully fails to keep such time book or record required by this section, or who makes any false statements therein or refuses to exhibit such time book or record, or makes any false statement to the Industrial Commission, or its duly accredited representatives in reply to questions submitted for the purpose of carrying out the provisions of this act, shall be guilty of a misdemeanor, and upon conviction thereof shall be subject to a fine for each offense in the sum of not less than ten dollars ($10.00) nor more than twenty-five dollars ($25.00). (Act Apr. 20, 1933, c. 354, §4.)

Section does not require keeping of a time record where employes' occupation is not regulated by this act. Op. Atty. Gen., June 21, 1933.

Section 4215 is calculated to afford commission facilities for inquiry and determination under this section. Op. Atty. Gen. (270g-5), Oct. 19, 1938.

4126-6. Industrial commission to enforce act.—The Industrial Commission of Minnesota shall be charged with the duty of enforcing the provisions of this act prosecuting all violations thereof. (Act Apr. 20, 1933, c. 354, §5.)

4126-7. Provisions separable.—Each section of this Act every part thereof is hereby declared to be an independent section or part of a section, and if any section, subsection, sentence, clause or phrase of this act shall for any reason be held unconstitutional the validity of the remaining phrases, clauses, sentences, subsections and sections of this act shall not be affected thereby. (Act Apr. 20, 1933, c. 354, §6.)

4126-8. Inconsistent acts repealed.—All Acts and parts of Acts in conflict with the provisions of this Act hereby are repealed, and Laws 1909, Chapter 499, Laws 1913, Chapter 581, Laws 1923, Chapter 422, hereby are repealed. (Act Apr. 20, 1933, c. 354, §7.)

This act did not repeal §4215. Op. Atty. Gen. (270g-5), Oct. 19, 1938.

4126-9. Definitions.—Throughout this Act the following words and phrases as used herein shall be considered to have the following meaning:

1. The term "laundry" shall mean processes connected with the receiving, marking, washing, cleaning, ironing, and distribution of washable or cleaning materials.

2. The term "public housekeeping" shall mean the work of waitresses in restaurants, hotel dining rooms, boarding houses, and all attendants employed at ice cream and light lunch stands and steam table or counter work in cafeterias and delicatessens where freshly cooked foods are served, and the work of chambermaids in hotels and lodging houses and boarding houses and hospitals, and the work of janitresses and car cleaners and of kitchen workers in hotels and restaurants and hospitals and elevator operators.

3. The term "manufacturing" and "mechanical" shall mean processes in the production and distribution of commodities, and manual labor with the aid of machines and tools.

4. The term "mercantile" shall mean the sales force, the wrapping employees, the shipping department employees, the receiving marking and stockroom employees, all employees in any way directly connected with the sale, purchase, and disposition of goods, wares, and merchandise. (Act Apr. 20, 1933, c. 354, §8.)

4126-10. Effective July 1, 1933.—This act shall take effect and be in force from and after July 1, 1933. (Act Apr. 20, 1933, c. 354, §9.)

4126-11. Employers to give written statement to employees in certain cases.—Whenever a contract of employment is consummated between an employer and an employe for work to be performed in this state, or for work to be performed in another state for an employer localized in this state, the employer shall give to the employe a written and signed agreement of hire, which shall clearly and plainly state:

(a) The date on which the agreement was entered into.

(b) The date on which the services of the employe are to begin.

(c) The rate of pay per unit of time, or of commission or by the piece, so that wages due may be readily computed.

(d) The number of hours a day which shall constitute a regular day's work, and whether or not additional hours the employe is required to work shall

constitute overtime and be paid for, and, if so, the rate of pay for overtime work.

(e) A statement of any special responsibility undertaken by the employe, not forbidden by law, which, if not properly performed by the employe, will entitle the employer to make deductions from the wages of the employe, and the terms upon which such deductions may be made. (Act Apr. 15, 1933, c. 250, §1.)

4126-12. Burden of proof on employer if no statement given.—Where no such written agreement is entered into, the burden of proof shall be upon the employer to establish the terms of the verbal agreement in case of a dispute with the employe as to its terms. (Act Apr. 15, 1933, c. 250, §2.)

4126-13. Application of act.—This Act shall not apply to farm labor. Nor shall it apply to casual employees, temporarily employed nor employers employing less than 10 employees. (Act Apr. 15, 1933, c. 250, §3.)

WAGES

Evidence held to sustain finding that failure to return to work for railroad was not a resignation nor abandonment of employment, nor a surrender of seniority rights. George v. C., 183M610, 235NW673. See Dun. Dig. 5808, 5827.

Discharge of railroad fireman for failure to respond to call for emergency run held unjustified. George v. C., 183M610, 235NW673. See Dun. Dig. 5822, 5832.

Railroad fireman's acceptance of reinstatement held not waiver of right to back pay, of which he was wrongfully deprived. George v. C., 183M610, 235NW673. See Dun. Dig. 5832.

4127. Penalty for failure to pay wages promptly.—Whenever any person, firm, company, association or corporation employing labor within this state discharges a servant or employe from his employment, the wages and/or commissions actually earned and unpaid at the time of such discharge shall become immediately due and payable upon demand of such employe, at the usual place of payment, and if not paid within twenty-four hours after such demand, whether such employment was by the day, hour, week, month or piece or by commissions, such discharged employe may charge and collect the amount of his average daily earnings at the rate agreed upon in the contract of employment, for such period, not exceeding fifteen days (after the expiration of said twenty-four hours) as the employer is in default, until full payment or other settlement, satisfactory to said discharged employe, is made. ('19, c. 175, §1; Apr. 8, 1933, c. 173, §1.)

Wages of persons employed in transitory work must be paid at least every 15 days and within 24 hours upon termination of employment, etc. Laws 1933, c. 223.

Section does not apply to municipal corporations such as the village of Keewatin. Op. Atty. Gen. (358b-2), Aug. 28, 1935.

The Wagner Labor Act cases. 22MinnLawRev1.

4128. Notice to be given—settlement of disputes.—Whenever any such employe (not having a contract for a definite period of service), quits or resigns his employment, the wages and/or commissions earned and unpaid at the time of such quitting or resignation shall become due and payable within five days thereafter, at the usual place of payment, and any such employer failing or refusing to pay such wages and/or commissions, after they so become due, upon the demand of such employe at such place of payment, shall be liable to such employe from the date of such demand for an additional sum equal to the amount of his average daily earnings provided in said contract of employment, for every day (not however, exceeding fifteen days in all), until such payment or other settlement satisfactory to said employe, is made; provided, that if any employe having such a contract as is above defined, gives not less than five days' written notice to his employer of his intention to quit such employment, the wages and/or commissions of the employe giving such notice shall become due at the usual place of payment twenty-four hours after he so quits or resigns, and payment thereof may be demanded accordingly, and the penalty herein provided shall apply in such case from the date of such demand; provided further, that if the employer disputes the amount of wages and/or commissions claimed by such employe under the provisions of this, or the preceding section, and the employer in such case makes a legal tender of the amount which he in good faith claims to be due, he shall not be liable for any sum greater than the amount so tendered and interest thereon at the legal rate, unless, in an action brought in a court having jurisdiction, such employe recovers a greater sum than the amount so tendered with such interest thereon; and if, in such suit, said employe fails to recover a greater sum than that so tendered, with interest as aforesaid, he shall pay the cost of such suit; otherwise the cost thereof shall be paid by said employer; provided further, that in cases where such discharge or quitting employe was, during his employment intrusted with the collection, disbursement or handling of money or property, the employer shall have ten secular days after the termination of the employment, to audit and adjust the accounts of such employe before his or her wages and/or commissions shall become due and payable, and the penalty herein provided shall apply in such case only from the date of demand made after the expiration of such period allowed for such audit and adjustment; and if, upon such audit and adjustment of said accounts of such employe, it is found that any money or property intrusted to him by his employer has not been properly accounted for or paid over to the employer, as provided by the terms of the contract of employment, such employe shall not be entitled to the benefit of this act, but the claim for earned and unpaid wages and/or commissions of such employe, if any, shall be disposed of as provided by existing law. ('19, c. 175, §2; Apr. 8, 1933, c. 173, §2.)

Ten-day time limit was only applicable provided employer had not done some act which relieved employee from making demand. Harris v. N., 193M480, 259NW16. See Dun. Dig. 5815.

4134. Payment of salary or wages earned by nonnegotiable instruments unlawful, etc.

Payment of wages to employe with script, requiring placing of stamps thereon, held violation of this section. Op. Atty. Gen., Mar. 20, 1933.

4134-1. Certain acts relating to payment of wages a misdemeanor.—Any person, firm, corporation or association who or which directly or indirectly and with intend to defraud causes any employe to give a receipt for wages for a greater amount than that actually paid to the employe for services rendered, or directly or indirectly demands or receives from any employe any rebate or refund from the wages to which the employe is entitled under his contract of employment with such employer, or in any manner makes or attempts to make it appear that the wages paid to any employe were greater than the amount actually paid to the employe, shall be guilty of a misdemeanor. (Act Apr. 15, 1933, c. 249.)

4135. When assignment, sale or transfer of wage or salary is not to be effective.

Under police power legislature may reasonably regulate assignment of unearned wages or salary. Murphy v. C., 187M65, 244NW335. See Dun. Dig. 566.

§§4135 to 4137, apply to both wages and salaries. Murphy v. C., 187M65, 244NW335. See Dun. Dig. 566.

§§4135 to 4137 apply to salary of an elective county commissioner. Murphy v. C., 187M65, 244NW335. See Dun. Dig. 566.

Compensation of school bus drivers under contracts constitute wages or salaries, if bus belongs to school. Op. Atty. Gen., May 9, 1933.

Right of partial assignee to sue. 18MinnLawRev216.

The wage assignment problem. 19MinnLawRev536.

Assignment of bank account. 22MinnLawRev1044.

4136. Unearned wages—Consent of employer—Collection fee—Penalty.

See §7774-57, post.

4137. Assignment of wages in certain cases—Payroll deductions.—Every assignment, sale, or transfer, however made or attempted, of wages or salary to be earned or to become due in whole or in

part more than sixty (60) days from and after the date of making such transfer, sale or assignment shall be absolutely void. Provided, however, that a written contract may be entered into between an employer and employe wherein the employe authorizes the employer to make payroll deductions for the purpose of paying premiums on any life insurance group accident and health insurance, group term life insurance, group annuities or contributions to Credit Unions, a community chest fund, for periods longer than such 60 days. (As amended Mar. 24, 1937, c. 95, §1.)

Sec. 2 of Act Mar. 24, 1937, cited, provides that the Act shall take effect from its passage.

An assignment of salary by school teacher to be earned and to become due more than 60 days from after date of assignment is void. Op. Atty. Gen., June 14, 1933.

In absence of consent by school board in writing, an assignment of school teacher's salary to be earned or to become due is void. Id.

Laws 1937, c. 95, does not permit contract between state and an officer or employee for monthly deduction. Op. Atty. Gen. (707b-11), July 28, 1937.

4140-1. Wages to be paid every fifteen days in certain cases.—Every person, firm, corporation or association employing any person or persons to labor or perform service on any project of a transitory nature, such as the construction, paving, repair or maintenance of roads or highways, sewers or ditches, clearing land or the production of forest products, or any other work which requires the employe to change his place of abode, shall pay the wages or earnings of such person or persons at intervals of not more than fifteen days, and payment thereof shall be made at the place of employment or in close proximity thereto. (Act Apr. 13, 1933, c. 223, §1.)

4140-2. Discharged employee must be paid within 24 hours.—When any such transitory employment as is described in section one hereof, which requires an employe to change his place of abode while performing the service required by the employment, is terminated, either by the completion of the work or by the discharge or quitting of the employe, the wages or earnings of such employe in such employment shall be paid within 24 hours, and if not then paid the employer shall pay to the employe his reasonable expenses of remaining in the camp or elsewhere away from his home while awaiting the arrival of payment of his wages or earnings, and if such wages or earnings are not paid within three days after the termination of such employment for any cause the employer shall in addition, pay to the employe the average amount of his daily earnings in such employment from the time of the termination of the employment until payment has been made in full, but not for a longer period of time than fifteen days. (Act Apr. 13, 1933, c. 223, §2.)

4140-3. Railroad pay checks to show amount of deduction.—Every railroad corporation doing business within this state shall state clearly on each pay check, or a statement accompanying such check, issued to an employee for services rendered to such corporation in this state the amount of any deduction made from the regular wage of such employee, the reason therefor and the date or period covered by such deduction. If there are several deductions on one pay check, each shall be set down separately.

Any railroad corporation willfully violating the provisions of this act shall be subject to a fine of $25.00 for each and every violation thereof; provided, however, if a railroad corporation violates the provisions of this act, with the same employee, two or more times in any one year it shall be prima facie evidence of a wilful violation of the act. (Act Apr. 11, 1935, c. 141, §1; Apr. 8, 1939, c. 169.)

DANGEROUS MACHINERY, STRUCTURES, AND PLACES

4141. Dangerous machinery, how guarded—defective machines, etc.

The evidence supports the finding of the jury that negligence of both defendants caused the death of plaintiff's intestate, killed by contact with a wire carrying deadly electrical current—the power company in stringing the wire too close to where employees in the packing corporation worked, and the latter in employing a boy under 16 in an occupation dangerous to life and limb. Weber v. B., 182M486, 234NW682. See Dun. Dig. 2996, 5859.

An employer does not owe the duty of inspecting simple tools and appliances. Hedicke v. H., 185M79, 239 NW896. See Dun. Dig. 5888.

The ordinary crate used in the delivery of a two-gallon spring water bottle is a simple appliance, and the mere fact that a sliver therefrom entered the employe's finger, causing infection, does not prove actionable negligence of the employer. Hedicke v. H., 185M79, 239NW 896. See Dun. Dig. 5888.

Industrial commission cannot enter upon land owned by federal government where post office is being constructed and enforce safety measures provided by §§4141 to 4187, 4279. Op. Atty. Gen., July 28, 1933.

Simple tool doctrine discussed. 18MinnLawRev435.

4145. Manufacture and sale of unguarded machines prohibited.

Evidence held to sustain finding that failure to guard an electric coal conveyor was proximate cause of injury to plaintiff. Nelson v. Z., 190M313, 251NW634. See Dun. Dig. 5895.

Evidence held not to require finding that plaintiff was guilty of contributory negligence in allowing his hand to be caught in unguarded machinery. Id. See Dun. Dig. 5913.

Modern tendency is away from holding as matter of law that an employee is contributorily negligent when an employer's disobedience of a statutory command is proximate cause of injury. Id. See Dun. Dig. 5913.

4147. Certain places, etc., to be lighted.

"Stairway" means flight of stairs, a series of steps ascending or descending to a different level, while a hatchway signifies an opening in a floor, sidewalk or deck. 171M408, 214NW269.

This section is not applicable to domestic service or agricultural labor. Dahlen v. P., 195M470, 263NW602. See Dun. Dig. 5869.

4152. Protection of hoistways, elevators, etc.

The word "Hatchway" has reference to openings in a floor, sidewalk, or deck, and not to the head of a stairway. 171M408, 214NW269.

Section does not protect an invitee who was not an employe. 171M440, 214NW659.

Passenger elevator owners as common carriers. 16 MinnLawRev585.

4153. Scaffolds, hoists, etc.—Etc.

An ordinary stepladder is a simple appliance and comes within the simple tool doctrine, relieving the employer, who furnishes it to be used by his employe, from the duty of inspection. Mozey v. E., 182M419, 234NW687. See Dun. Dig. 5888.

There was no need to base decision allowing recovery for injuries suffered from fall of scaffold upon this section where its applicability was not urged in court below. Gilbert v. M., 192M495, 257NW73. See Dun. Dig. 5888.

4159. Notices, etc., how served—Liability of owners, etc.

Any person having an interest present or prospective is entitled to inspect and make copies of orders, suggestions or notices served under 4159, but not report filed under 4197. Op. Atty. Gen. (851j), July 23, 1936.

4161. "Prime mover" defined, etc.

Nelson v. Z., 190M313, 251NW534; note under §4145.

4171. Definition.

Wickstrom v. T., 191M327, 254NW1; note under §4174.

4172. Duty of employer.

Employe suing at common law held to have assumed the risk of working in ice-cold water in defendant's mine. Jurovich v. I., 181M555, 233NW465. See Dun. Dig. 5978.

Evidence held to sustain finding that creamery violated statutes in leaving water on floors and in failing to heat office, and that there was causal connection between such violations and tuberculosis of employee. Fredrickson v. A., 202M12, 277NW345. See Dun. Dig. 5867.

Whether creamery employee was guilty of contributory negligence in continuing to work in a cold room with wet floors held for jury. Id. See Dun. Dig. 5881.

"Stand while working" does not mean that an employee must remain stationary while performing his work. Id. See Dun. Dig. 5883.

4174. Ventilation.

Risk of injury from violation of this section is not assumed. 180M21, 230NW125.

In action by employee charging disease contracted because of fumes and gases from dynamite used in blasting a tunnel, wherein defendant denied all negligence and denied practicability of installing adequate ventilating facilities, court erred in striking out as frivolous

defense of assumption of risk. Wickstrom v. T., 191M 327, 254NW1. See Dun. Dig. 5973, 5978, 7668a.

Grain elevators come within provision of section. Clark v. B., 195M44, 261NW596. See Dun. Dig. 5899.

Recovery by employee predicated solely upon violation of ventilating statutes, defense of assumption of risk is not available. Id. See Dun. Dig. 5969.

In action for damages for pulmonary tuberculosis alleged to have been contracted while in defendant's employ though violation of §§4172, 4173, 4174, 4176, court properly ordered judgment for defendant because cause of condition was wholly within field of speculation and conjecture. O'Connor v. P., 197M534, 267NW507. See Dun. Dig. 10386.

Evidence justified finding liability against employers who failed to meet statutory requirements relating to ventilation of premises where employee was required to do his work and became ill from silicosis and tuberculosis. Golden v. L., 203M211, 281NW249. See Dun. Dig. 5869.

Whether an employee suffering from silicosis by reason of improper ventilation was guilty of contributory negligence held for jury. Id. See Dun. Dig. 6016.

4176. Heat and ventilation.

Whether creamery employee was guilty of contributory negligence in continuing to work in a cold room with wet floors held for jury. Fredrickson v. A., 202M12, 277NW345. See Dun. Dig. 5883(38).

Evidence held to sustain finding that creamery violated statutes in leaving water on floors and in failing to heat office, and that there was causal connection between such violations and tuberculosis of employee. Id. See Dun. Dig. 5867.

4177. Toilet facilities.

Violation of this section, held, under the evidence, a question for the jury. 179M325, 229NW136.

4181. To be kept in perfect condition.

Violation of this section, held, under the evidence, a question for the jury. 179M325, 229NW136.

4194. Scope of report.

Reports of accident may not be disclosed to injured employe or his attorney. Op. Atty. Gen., June 15, 1932.

4197. Admissibility of report.

Prohibition against admitting reports into evidence applies only to those reports submitted to Industrial Commission, not reports submitted to insurance companies or others. Hector Const. Co. v. B., 194M310, 260NW 496. See Dun. Dig. 3348.

Reports of accident may not be disclosed to injured employe or his attorney. Op. Atty. Gen., June 15, 1932.

Any person having an interest present or prospective is entitled to inspect and make copies of orders, suggestions or notices served under 4159, but not report filed under 4197. Op. Atty. Gen. (851j), July 23, 1935.

4202-1. Executive council may appropriate money for safety inspection work.—The State Executive Council is hereby authorized and empowered to expend out of any relief funds available therefor, such sums of money which, in their judgment, may be necessary for safety inspection work required by law for the protection of employes engaged upon such state and federal projects as may be designated by the Council. (Act Apr. 22, 1935, c. 233, §1.)

Sec. 2 of Act Apr. 22, 1935, cited, provides that the act shall take effect from passage.

Money appropriated by Laws 1935, c. 51, is available for use by executive council under Laws 1935, c. 233. Op. Atty. Gen. (928c-15), June 3, 1935.

MINIMUM WAGES

4210. Duties of minimum wage commission transferred.

Since the supreme court of the United States in case of West Coast Hotel Co. v. Ernest Parrish reversed its decision in Adkins v. Children's Hospital, 261US525, entire act covering minimum wages of women and children is legal and enforceable. Op. Atty. Gen. (86a-53), Apr. 16, 1937.

4214. To investigate wages of women and minors.—The commission may at its discretion investigate the wages paid to women and minors in any occupation in this state. At the request of not less than one hundred persons engaged in any occupation in which women and minors are employed, the commission shall forthwith make such investigation as herein provided. The term minor, for the purpose of such investigation and for providing minimum wages to be paid to women and minors, shall mean any person, male or female, under the age of 21 years. (As amended Mar. 18, 1937, c. 79, §1.)

Employment of minors in wholesale and retail nursery consisting of seeding and cultivating bulbs, flowers and ornamental shrubs is within regulation of minimum wage law. Op. Atty. Gen., Nov. 22, 1933.

4215. Duties of employers—Register.

Industrial commission has power to gather wage data and to examine wage records of adult women. Op. Atty. Gen., June 26, 1933.

This section was not superseded by Laws 1933, c. 354, §4 (§4126-5), and is calculated to afford commission facilities for inquiry and determination under the later act. Op. Atty. Gen. (270g-5), Oct. 19, 1938.

4216. Public hearings—Witnesses, etc.

Unless action of state industrial commission in determining what constitutes a minimum living wage for women and minors is executive merely, its procedure must include a full hearing and there must be evidence. Western Union Telegraph Co. v. I., (DC-Minn), 24FSupp 370.

4217. Legal minimum wages to be established.

Establishment of minimum wages for women and minors employed in industry is within regulatory power of state. Western Union Telegraph Co. v. I., (DC-Minn), 24FSupp370.

Company must comply with state regulation, though minimum wage exceeds that in federal code. Op. Atty. Gen., Aug. 29, 1933.

4218. Wages, how determined—Order of commission—Copies to be mailed and posted.—Subdivision 1. The industrial commission of Minnesota shall determine the minimum wages sufficient for living wages for women and minors or [sic] ordinary ability and also the minimum wages sufficient for living wages for learners and apprentices. The commission shall then issue an order to be effective 30 days thereafter, making the wages thus determined the minimum wages in said occupation throughout the state, or within any area of the state if differences in the cost of living warrant this restriction; provided, however, that those provisions of any order heretofore or hereafter issued by the commission with reference to the rate of pay for each hour of employment in excess of the minimum number of hours established by the commission, shall not apply to cases in which night telephone operators may be at their place of employment for no more than 12 hours and shall have an opportunity for at least four hours of sleep during the said 12 hours of employment, and shall not apply to telephone operators employed in cities, towns, villages, boroughs and townships of less than 1,500 inhabitants.

Subdivision 2. Such order shall be published in one issue of a daily newspaper of general circulation published in each city of the first class, at least 20 days before the same takes effect, and proof of such publication as required in the publication of legal notices, together with the original order shall be filed with the commission. A copy of such order and of the proofs of publication, duly certified by the secretary of said commission, shall be prima facie evidence of the existence of such order and the contents thereof, and of the facts of publication as contained in such certified copies, and the certificate of the secretary of said commission shall be prima facie evidence of the filing and of other acts required by law in relation to said order.

Subdivision 3. The commission shall mail to each employer affected by said order, whose name and address is known to the commission, a copy or copies of said order with such general or particular directions for posting the same as the commission may determine, and such employer shall post such order or orders and keep the same posted in his factory or place where women or minors are employed, as required by said commission. Provided, however, that failure to mail such orders to any employer affected thereby shall not relieve such employer from the duty to comply with such order in relation to the payment of a wage not less than the minimum prescribed in such order. (As amended Apr. 10, 1939, c. 186.)

Minimum wage commission had no authority to regulate the hours of workers outside cities of the first and second class. Op. Atty. Gen., May 8, 1931.

Publication of Order No. 12 adopted pursuant to G. S. 1913, §3909, before amendment by Laws 1923, c. 153, is

unnecessary, section being prospective in operation. Op. Atty. Gen. (845c), Sept. 17, 1936.

4224. Employment at less than minimum wage prohibited.

Since the supreme court of the United States in case of West Coast Hotel Co. v. Ernest Parrish reversed its decision in Adkins v. Children's Hospital, 261US525, entire act covering minimum wages of women and children is legal and enforceable. Op. Atty. Gen. (86a-53), Apr. 16, 1937.

4232. Construction of terms.

Farm laborers and household servants are not within provision of act. Op. Atty. Gen., Mar. 12, 1934.

Neither Laws 1937, c. 79, nor Laws 1937, c. 435, affect §8569, or any other provisions of marriage law of state, and consent to marriage is required from guardian or parent where female is of full age of 15 years and under 18. Op. Atty. Gen. (300a), May 13, 1937.

(8).

Employment of women and minors in a wholesale nursery is employment in an "occupation." Op. Atty. Gen., Nov. 22, 1933.

Practice of medicine and surgery is a business or occupation coming within this section, and office girls in office of a physician are employees. Op. Atty. Gen. (845c), June 16, 1939.

EMPLOYMENT BUREAUS

4254. State to co-operate with federal government and municipalities in conduct of labor bureaus.

Editorial note.—Power conferred on the industrial commission is transferred to the director of employment and security by Act Apr. 22, 1939, c. 431, Art. 7, §2(11)(d), ante §3199-102(11)(d).

EMPLOYMENT AGENCIES

4254-3. Applicant to file written application.—Every applicant for a license shall file with the commission a written application stating the name and address of the applicant, the kind of license desired, the street and number of the building in which the employment agency is to be maintained, the name of the person who is to have the general management of the office, the name under which the business of the office is to be carried on, whether or not the applicant is pecuniarily interested in any other business of a like nature, and if so, where. Such application shall also state whether the applicant is the only person pecuniarily interested in the business to be carried on under the license and shall be signed by the applicant and sworn to before a notary public. If the applicant is a corporation, the application shall state the names and addresses of the officers and directors of said corporation and shall be signed and sworn to by the president and treasurer thereof. If the applicant is a partnership, the application shall also state the names and addresses of all partners therein, and shall be signed and sworn to by all of them. Said application shall also state whether or not said applicant is at the time of making application, or has at any previous time, been engaged or interested in, or employed by any one engaged in the business of conducting an employment agency, either in this state or any other, and if so, when and where. Said application shall also give as reference the names and addresses of at least three persons of reputed business or professional integrity located in the city or town where such applicant intends to conduct his business. Every applicant for a license to engage in the business of an employment agent shall, at the time of making application for said license, file with the commission a schedule of the fees or charges to be collected by such employment agent for any services rendered together with all rules or regulations that may in any way affect the fees charged or to be charged for any service. Such fees and such rules or regulations may thereafter be changed by filing an amended or supplemental schedule showing such charges, with the commission. It shall be unlawful for any employment agent to charge, demand, collect or receive a greater compensation for any service performed by him than is specified in such schedule filed with the commission.

It shall be the duty of the industrial commission, and it shall have power, jurisdiction and authority to issue licenses to employment agents, and to refuse to issue such license whenever, after due investigation, the commission or a majority of the members thereof finds that the character of the applicant makes him unfit to be an employment agent, or when the premises for conducting the business of an employment agent is found upon investigation to be unfit for such use, or whenever, upon investigation by the commission, it is found and determined, that the number of licensed employment agents or that the employment agency operated by the United States, the state or by the municipality or by two or more thereof jointly in the community in which the applicant for a permit proposes to operate is sufficient to supply the needs of employers and employees. Any such license granted by the commission may also be revoked by it upon due notice to the holder of said license, and upon due cause shown. Failure to comply with the duties, terms, conditions or provisions of Sections 1 to 18 [Mason's Minn. Stat., 1927, §§4254-1 to 4254-18], inclusive, of this act, or with any lawful orders of the commission, shall be deemed due cause to revoke such license. Provided, however, that no employment agency duly licensed to do business at the time of the passage of this act shall be denied a renewal of his, her or its license or have his, her, or its license revoked on the ground that public necessity does not require such an agency. ('25, c. 347, §3; Apr. 23, 1929, c. 293.)

The industrial commission must issue a license unless reasons for rejecting it, pointed out by the statute, are found to exist. The commission has no power to limit the number of agencies. 173M47, 216NW323.

Attempt to confer power upon industrial commission to deny an applicant right to operate an employment agency upon ground that field is already sufficiently occupied, is a denial of due process and equal protection. Engberg v. D., 194M394, 260NW626. See Dun. Dig. 1610 (4).

MINNESOTA LABOR RELATIONS ACT

4254-21. Definitions.—When used in this act the word or term:

(a) "Person" includes individuals, partnerships, associations, corporation, trustees, and receivers; the singular includes the plural, and the masculine includes the feminine.

(b) "Employer" includes all persons employing others and all persons acting in the interest of an employer, but does not include the state or any political or governmental subdivision thereof, nor any person subject to the Federal Railway Labor Act, as amended from time to time.

(c) "Employee" includes, in addition to the accepted definition of the word, any employee whose work has ceased because of any unfair labor practice as defined in section 12 of this act on the part of the employer or because of any current labor dispute and who has not obtained other regular and substantially equivalent employment, but does not include any individual employed in agricultural labor or by his parent or spouse or in domestic service of any person at his own home.

(d) "Representative of employees" means a labor organization or one or more individuals selected by a group of employees as provided in Section 16 of this act.

(e) "Labor organization" means any organization of employees which exists for the purpose, in whole or in part, of collective bargaining or of dealing with employers concerning grievances or terms or conditions of employment.

(f) "Labor dispute" includes, any controversy concerning employment, tenure or conditions or terms of employment or concerning the association or right of representation of persons in negotiating, fixing, maintaining, changing or seeking to arrange terms, tenure, or other conditions of employment, regardless of whether or not the relationship of employer and employee exists as to the disputants.

(g) "Strike" means the temporary stoppage of work by the concerted action of two or more employees as a result of a labor dispute as defined herein.

(h) "Lockout" is the refusal of the employer to furnish work to employees as a result of a labor dispute as defined herein.

(i) "Commission" means the commission of three members which may be appointed by the governor to conduct hearings under this act.

(j) "Unfair labor practice" means any unfair labor practice defined in sections 11 and 12 of this act.

(k) "Competent evidence" means evidence admissible in a court of equity and such other evidence other than hearsay as is relevant and material to the issue and is of such character that it would be accepted by reasonable men as worthy of belief. (Act Apr. 22, 1939, c. 440, §1.)

(b).
Private hospitals are employers, and employees thereof come within act. Op. Atty. Gen. (270), June 29, 1939.

(c).
Nursery employees engaged in cultivation or growing operations are not "employees" under act. Op. Atty. Gen. (270), July 20, 1939.

4254-22. Division of conciliation established—Conciliators—Salary.—There is hereby established in the department of labor and industries a division of conciliation but not in any way subject to the control of said department. Said division shall be under the supervision and control of a labor conciliator who shall be appointed by the governor with the advice and consent of the senate. He shall receive an annual salary of $4,500 and shall hold office for a term of four years. The term of the first labor conciliator hereunder shall expire March 1, 1945. The governor may from time to time appoint special conciliators to aid in the settlement of particular labor disputes or controversies, and such special conciliators when appointed shall have the same power and authority as the labor conciliator and such appointment shall be for the duration only of the particular dispute. Such special conciliators shall be paid a per diem of $15.00 per day while so engaged, and their necessary expenses. The labor conciliator shall prepare a roster of persons qualified to act as such special conciliators and keep the same revised at all times and available to the governor and the public.

The labor conciliator may employ and discharge clerks and other assistants, as needed, fix their compensation and assign to them their duties. (Act Apr. 22, 1939, c. 440, §2.)

4254-23. May be removed for political activities.—Any labor conciliator or employee, under the provisions of this act, who exerts his influence, directly or indirectly to induce any other person to adopt his political views, or to favor any particular candidate for office, or to contribute funds for political purposes, shall forthwith be removed from his office or position by the authority appointing him; provided that before removal the labor conciliator shall be entitled to a hearing before the governor, and any other employee shall be entitled to a similar hearing before the labor conciliator. (Act Apr. 22, 1939, c. 440, §3.)

4254-24. Expenses of Conciliator and employees.—The labor conciliator and his employees or any special conciliator shall be paid their actual and necessary traveling and other expenses incurred in the performance of their duties. Vouchers for such expenses shall be itemized and sworn to by the person incurring the expense. (Act Apr. 22, 1939, c. 440, §4.)

4254-25. Conciliator to adopt rules and regulations.—The labor conciliator shall adopt reasonable and proper rules and regulations relative to and regulating the conduct of the hearings. Such rules and regulations shall be printed and made available to the public and a copy delivered with each notice of hearing; provided that every such rule or regulation shall be filed with the secretary of state, and any change therein or additions thereto shall not take effect until 20 days after such filing. (Act Apr. 22, 1939, c. 440, §5.)

4254-26. Notice to employer—Notice by employer of change in conditions—Notice of intent to strike—Requisites of notices—Conference.—Whenever any representative of employees or labor organization shall desire to negotiate a collective bargaining agreement, or make any change in any existing agreement, or shall desire any changes in the rates of pay, rules or working conditions in any place of employment, it shall give written notice to the employer of its demand, and it shall thereupon be the duty of the employer and the representative of employee or labor organization to endeavor in good faith to reach an agreement respecting such demand. An employer shall give a like notice to his employees, representatives or labor organizations of any intended change in any existing agreement. If no agreement is reached at the expiration of ten (10) days after service of such notice, any employees, representative, labor organization, or employer may give notice of intention to strike or lockout, as the case may be, but it shall be unlawful for any labor organization or representative to institute or aid in the conduct of a strike or for an employer to institute a lockout, unless notice of intention to strike or lockout has been served by the party intending to institute a strike or lockout upon the labor conciliator and the other parties to the labor dispute at least ten (10) days before the strike or lockout is to become effective.

Notice by the employer shall be signed by him or his duly authorized officer or agent; and notice by the employees shall be signed by their representative or its officers, or by the committee selected to conduct the strike. In either case the notice shall be served by delivering it to the labor conciliator in person or by sending it by registered mail addressed to him at his office. The notice shall state briefly the nature of the dispute and the demands of the party who serves it. Upon receipt of a notice, the labor conciliator shall fix a time and place for a conference with the parties to the labor dispute upon the issues involved in the dispute, and he shall then take whatever steps he deems most expedient to bring about a settlement of the dispute, including assisting in negotiating and drafting a settlement agreement. It shall be the duty of all parties to a labor dispute to respond to the summons of the labor conciliator for joint or several conferences with him and to continue in such conference until excused by the labor conciliator, not beyond, however, the ten day period heretofore prescribed except by mutual consent of the parties. (Act Apr. 22, 1939, c. 440, §6.)

Under a collective bargaining agreement between automobile retail salesmen's association and automobile dealers whereby dealers agreed to hire additional salesmen through association and not to employ any other persons, and one of dealers obtained applications for membership in association from only part of its salesmen, others refusing to join, and refused to turn these applications over to association until all salesmen should join association, there was a violation of the agreement by continuing to employ salesmen who were not members of association, and remedies of association are to call a strike or bring suit for damages, but first make a demand for arbitration as provided in agreement. Op. Atty. Gen. (270d-12), May 8, 1939.

4254-27. Business affected with public interest—Notice to governor—Appointment of commission—Delay of strike or lockout.—If the dispute is in any industry, business or institution affected with a public interest, which includes, but is not restricted to, any industry, business or institution engaged in supplying the necessities of life, safety, or health, so that a temporary suspension of its operation would endanger the life, safety, health or well being of a substantial number of people of any community, the provisions of section 6 shall apply and the labor conciliator shall also notify the Governor who may appoint a commission of three, to conduct a hearing and make a report on the issues involved and the merits of the

respective contentions of the parties to the dispute. If the commission is appointed by the Governor, the labor conciliator shall immediately notify the parties to the labor dispute and shall also inform them of the date of the notification to the Governor. The members of such commission shall on account of vocations, employment or affiliations be representative of employees, employers and the public respectively. Such report shall be filed with the Governor and may be published as he may determine in one or more legal newspapers in the counties where the dispute exists. If and when a commission shall be appointed, neither party to the dispute shall make any change in the situation affecting the dispute and no strike or lockout shall be instituted until the report of the commission shall have been filed or thirty (30) days shall have elapsed after the notification to the Governor. (Act Apr. 22, 1939, c. 440, §7.)

It is duty of conciliator to notify governor as soon as he determines that dispute is affected with public interest, but such notice must be given before expiration of 10 days from time when conciliator has been served with notice, as provided in §6. Op. Atty. Gen. (270), June 19, 1939.

Rules of procedure relating to hearings before commission as prepared by attorney general. Op. Atty. Gen. (270), August 15, 1939.

4254-28. Commission to subpoena witnesses—Contempt—Conciliator may take jurisdiction on request—Appearance.—(a) The commission appointed by the governor pursuant to the provisions of this act shall have the power to issue subpoenas requiring the attendance and testimony of witnesses and the production of evidence which relates to any matter involved in any such hearing, and may by its chairman administer oaths and affirmations, and may examine witnesses. Such attendance of witnesses and the production of such evidence may be required from any place in the state of Minnesota at any designated place of hearing, but hearings shall be held in a county where the labor dispute has arisen or exists.

(b) In case of contumacy or refusal to obey a subpoena issued under subsection (a) of this section, the district court of the state of Minnesota for the county where the proceeding is pending or in which the person guilty of such contumacy or refusal to obey is found, or resides, or transacts business, or application by the commission shall have jurisdiction to issue to such person an order requiring such person to appear before the commission, there to produce evidence as so ordered, or there to give testimony touching the matter under investigation or in question, and any failure to obey such order of the court may be punished by said court as a contempt thereof.

(c) The labor conciliator may take jurisdiction of a labor dispute in which negotiations for settlement have failed if either party to said dispute before a vote to strike or lockout files a petition requesting said conciliator to act in the dispute, setting forth the issues of the dispute and the efforts to agree and the failure to reach an agreement. If the conciliator takes jurisdiction he shall then proceed as otherwise provided in this act.

(d) Any party to or party affected by the dispute may appear before the labor conciliator or the commission in person or by attorney or by their representative, and shall have the right to offer competent evidence and to be heard on the issues before the report is made.

Any commissioners so appointed shall be paid a per diem of $15.00 per day and their necessary expenses while serving. (Act Apr. 22, 1939, c. 440, §8.)

4254-29. Labor disputes may be submitted to arbitration.—Whenever a labor dispute arises which is not settled by conciliation, such dispute may, by written agreement of the parties, be submitted to arbitration on such terms as the parties may specify, including, among other methods, the arbitration procedure under the terms of Sections 9513 to 9519, inclusive, of Mason's Minnesota Statutes of 1927, and acts amendatory thereof and supplementary thereto, and arbitration under the Voluntary Industrial Arbitration Tribunal of the American Arbitration Association. If any such agreement so provides, the labor conciliator may act as a member of any arbitration tribunal created by any such agreement, and, if the agreement so provides, the conciliator may appoint one or more of such arbitrators. Either or both of the parties to any such agreement, or any arbitration tribunal created under any such agreement, may apply to the conciliator to have the said tribunal designated as a temporary arbitration tribunal, and if so designated, said temporary arbitration tribunal shall have power to administer oaths to witnesses and to issue subpoenas for the attendance of witnesses and the production of evidence, which subpoenas shall be enforced in the same manner as subpoenas issued by the commission under Section 8 of this act. Any such temporary arbitration tribunal shall file with the conciliator a copy of its report, duly certified by its chairman. (Act Apr. 22, 1939, c. 440, §9.)

There is no authorization for conciliator to pay arbitrators but they must be paid as provided for in §9515. Op. Atty. Gen. (270), June 6, 1939.

4254-30. Employees to have right to join labor organization—Lists or organizations.—(a) Employes shall have the right of self-organization and the right to form, join or assist labor organizations, to bargain collectively through representatives of their own choosing, and to engage in lawful, concerted activities for the purpose of collective bargaining or other mutual aid or protection; and such employes shall also have the right to refrain from any and all of such activities.

(b) Employers shall have the right to associate together for the purpose of collective bargaining.

(c) The conciliator shall maintain a list of labor organizations and employers organizations. A labor organization to be recognized and included in the list by the conciliator must file with him a statement under oath of its name, the name and address of its secretary or other officer to whom notices may be sent, the names and addresses of its business agents, the date of its organization, and its affiliations, if any, with other labor organizations or bodies. An employers' organization to be recognized and included in the list by the conciliator must file with him a statement under oath of its name, the name and address of its secretary or other officer to whom notices may be sent, the names and addresses of its principal agent, the date of its organization, and its affiliations, if any, with other employer organizations or groups. Such information shall be for the use of the conciliator only and shall not be open to public inspection, but the conciliator may furnish such information upon request to the parties to a labor dispute. (Act Apr. 22, 1939, c. 440, §10.)

(a).

Section does not prevent closed shop contract. Op. Atty. Gen. (270), August 24, 1939.

4254-31. What are unfair labor practices by employees.—It shall be an unfair labor practice:

(a) For any employe or labor organization to institute a strike if the calling of such strike is a violation of any valid collective agreement between any employer and his employes or labor organization and the employer is, at the time, in good faith complying with the provisions of the agreement.

(b) For any employe or labor organization to institute a strike if the calling of such strike is in violation of sections 6 or 7 of this act.

(c) For any person to seize or occupy property unlawfully during the existence of a labor dispute.

(d) For any person to picket or cause to be picketed a place of employment of which place said person is not an employe while a strike is in progress affecting said place of employment, unless the majority of persons engaged in picketing said place of employment at said times are employes of said place of employment.

(e) For more than one person to picket or cause to be picketed a single entrance to any place of employment where no strike is in progress at the time.

(f) For any person to interfere in any manner with the operation of a vehicle or the operator thereof when neither the owner nor operator of said vehicle is at said time a party to a strike.

(g) For any employe, labor organization or officer, agent or member thereof to compel or attempt to compel any person to join or to refrain from joining any labor organization or any strike against his will by any threatened or actual unlawful interference with his person, immediate family or physical property, or to assault or unlawfully threaten any such person while in pursuit of lawful employment.

(h) The violation of sub-sections (b), (c), (d), (e), (f) and (g) of this section are hereby declared to be unlawful acts. (Act Apr. 22, 1939, c. 440, §11.)

(f).

It makes no difference where owner or employee operator of vehicle resides or whether he is regularly or casually engaged in operating a motor vehicle. Op. Atty. Gen. (270d-7), August 11, 1939.

If neither owner nor operator of a vehicle is a party to a strike, it is unlawful to interfere in any manner with operation of vehicle or operator thereof whether it be upon any of the public streets or highways or upon premises of any business establishment or elsewhere, and such violation is a misdemeanor within meaning of §10047 with punishment prescribed by §9922. Id.

4254-32. What are unfair labor practices by employers.—It shall be an unfair labor practice for an employer:

(a) To institute any lockout of his employes in violation of any valid collective bargaining agreement between the employer and his employes or labor organization if the employes at the time are in good faith complying with the provisions of the agreement.

(b) To institute any lockout of his employes in violation of sections 6 or 7 of this act.

(c) To encourage or discourage membership in any labor organization by discrimination in regard to hire or tenure of employment or any terms or conditions of employment; provided, however, that this subsection shall not apply to the provisions of collective bargaining agreements entered into voluntarily by an employer and his employees or a labor organization representing said employees as a bargaining agent as provided by section 16 of this act.

(d) To discharge or otherwise to discriminate against an employe because he has signed or filed any affidavit, petition or complaint or given any information or testimony under this act.

(e) To spy directly or through agents or any other persons upon any activities of employes or their representatives in the exercise of their legal rights.

(f) To distribute or circulate any blacklist of individuals exercising any legal right or of members of a labor organization for the purpose of preventing individuals so blacklisted from obtaining or retaining employment.

(g) The violation of sub-sections (b), (d), (e) and (f) of this section are hereby declared to be unlawful acts. (Act Apr. 22, 1939, c. 440, §12.)

4254-33. What are unlawful practices.—It shall be unlawful for any person at any time to interfere with the free and uninterrupted use of public roads, streets, highways or methods of transportation or conveyance or to wrongfully obstruct ingress to and egress from any place of business or employment. (Act Apr. 22, 1939, c. 440, §13.)

Interference with loading or unloading at place of business establishment does not constitute a violation unless it obstructs ingress to or egress from place of business or employment. Op. Atty. Gen. (270d-7), August 11, 1939.

4254-34. Suit to enjoin unfair labor practices.—Whenever any unfair labor practice is threatened or committed, a suit to enjoin such practice may be maintained in the district court of any county wherein such practice has occurred or is threatened. In any suit to enjoin any of the unfair labor practices set forth in Sections 11 and 12 of this act [§§4254-31, 4254-32], the provisions of Mason's Minnesota Statutes, Sections 4257 to 4260 and Mason's Minnesota Statutes, 1938 Supplement, Sections 4256, sections 4260-1 to 4260-15 shall not apply, provided, however, that no court of the state of Minnesota shall have jurisdiction to issue a temporary or permanent injunction in any case involving or growing out of the violation of Sections 11 and 12 of this act as herein defined, except after hearing the testimony of witnesses in open court, with opportunity for cross examination, in support of the allegations made under oath, and testimony in opposition thereto if offered, and except after findings of fact by the court to the effect that the acts set forth in Sections 11 and 12 of this act have been threatened and will be committed unless restrained or have been committed and will be continued unless restrained, provided, however, that no temporary restraining order may be issued under the provisions of this act except upon the testimony of witnesses produced by the applicant in open court and upon a record being kept of such testimony. (Act Apr. 22, 1939, c. 440, §14.)

4254-35. Not to be entitled to benefit of act in certain cases.—Any employer, employee or labor organization who has violated any of the provisions of this act with respect to any labor dispute shall not be entitled to any of the benefits of this act respecting such labor disputes and such employer, employees, or labor organization shall not be entitled to maintain in any court of this state an action for injunctive relief with respect to any matters growing out of that labor dispute, until he shall have in good faith made use of all means available under the laws of the state of Minnesota for the peaceable settlement of the dispute. (Act Apr. 22, 1939, c. 440, §15.)

4254-36. Representatives for collective bargaining.—(a) Representatives designated or selected for the purpose of collective bargaining by the majority of the employes in a unit appropriate for such purposes shall be the exclusive representatives of all the employes in such unit for the purposes of collective bargaining in respect to rates of pay, wages, hours of employment, or other conditions of employment, provided, that any individual employe or group of employes shall have the right at any time to present grievances to their employer in person or through representatives of their own choosing.

(b) Whenever a question concerning the representative of employes is raised by an employe, group of employes, labor organization, or employer the labor conciliator or any person designated by him shall at the request of any of the parties, investigate such controversy and certify to the parties, in writing, the name or names of the representatives that have been designated or selected. The labor conciliator shall decide in each case whether, in order to insure to employees the full benefit of their right to self organization and to collective bargaining, and otherwise to effectuate the purpose of this act, the unit appropriate for the purpose of collective bargaining shall be the employer unit, craft unit, plant unit; provided, however, that any larger unit may be decided upon with the consent of all employers involved, and provided further, however, that when a craft exists, composed of one or more employees then such craft shall constitute a unit appropriate for the purpose of collective bargaining for such employee or employees belonging to said craft and a majority of such employees of said craft may designate a representative for such unit. Two or more units may by voluntary consent, bargain through the same agent or agents with an employer or employers, their agent or agents. Supervisory employees shall not be considered in the selection of a bargaining agent. In any such investigation, the labor conciliator may provide for an appropriate hearing, and may take a secret ballot of employees or utilize any other suitable method to ascertain such

representatives, but the labor conciliator shall not certify any labor organization which is dominated, controlled or maintained by an employer. If the labor conciliator has certified the representatives as herein provided, he shall not be required to again consider the matter for a period of one year unless it appears to him that sufficient reason exists. (Act Apr. 22, 1939, c. 440, §16.)

Where there is a conflict as to certification of bargaining agent between National Labor Board and State Labor Conciliator, state board must yield. Op. Atty. Gen. (270), July 20, 1939.

4254-37. Appropriation.—The sum of $25,000 is herewith appropriated to be immediately available and for the fiscal year ending June 30, 1940 and the sum of $15,000 is hereby appropriated for the fiscal year ending June 30, 1941, for the purpose of carrying out the provisions of this act. (Act Apr. 22, 1939, c. 440, §17.)

4254-38. Provisions severable.—If any provision of this act, or the application of such provision to any person or circumstance, shall be held invalid, the remainder of this act, or the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby. (Act Apr. 22, 1939, c. 440, §18.)

4254-39. Citation of act.—This act may be cited as the "Minnesota Labor Relations Act". (Act Apr. 22, 1939, c. 440, §19.)

4254-40. Laws repealed.—Subsection (4) of Section 4046, Mason's Minnesota Statutes of 1927 and all acts or portion of acts inconsistent herewith are hereby repealed. (Act Apr. 22, 1939, c. 441, §20.)

INJUNCTIONS AND RESTRAINING ORDERS

4255. Labor organizations declared not unlawful.

See §§4260-1 to 4260-15, post.

Laws 1933, c. 416, should be construed as supplemental to §§4255 to 4260 and not as repealing any part of those sections. Op. Atty. Gen., May 31, 1933.

Validity of state anti-injunction legislation. 33MichLaw Rev777.

Judicial intervention in internal affairs of labor unions. 20MinnLawRev657.

Study of judicial attitude toward trade unions and labor legislation. 23MinnLawRev255.

4256. When restraining order or injunction not to be issued.—No restraining order or injunction shall be granted by any court of this state, or any judge or judges thereof in any case between an employer and employes or between employer and employes or between employes or between persons employed and persons seeking employment, involving or growing out of a dispute concerning terms or conditions of employment, except after notice and a hearing in court and shown to be necessary to prevent irreparable injury to property, or to a property right of the party making the application, for which injury there is no adequate remedy at law, and such property or property right must be described with particularity in the application, which must be in writing and sworn to by the applicant or by his agent or attorney; provided, that a temporary restraining order may be issued without notice and hearing upon a proper showing that violence is actually being caused or is imminently probable on the part of the person or persons sought to be restrained; and provided that in such restraining order all parties to the action shall be similarly restrained. ('17, c. 493, §2; Apr. 19, 1929, c. 260.)

See §§4260-1 to 4260-15, post.

In suit for injunction to restrain defendants from violating plaintiffs' seniority rights as employees of railway, finding is sustained that no such rights were violated by operating Hill Avenue Yard and connected ore dock of defendant railway company under pool agreement with another railway company as modified by Exhibit A, procured through mediation of defendant Brotherhood. Georgs T. Ross Lodge v. B., 191M373, 254 NW590.

There was no error in receiving opinion of experienced officers of brotherhoods as to whether any seniority rights were violated in operating yard and dock, under pool arrangement. Id. See Dun. Dig. 3332.

Separate agreement as to four individual employees of railway, not parties to suit, can have no bearing on controversy wherein certain employees sought by injunction to restrain violation of seniority rights. Id. See Dun. Dig. 3254.

Determination of railroad brotherhoods that no seniority rights of employees were violated by the said modified pooling agreement should be recognized by the courts. Id.

4257 to 4260.

See §§4260-1 to 4260-15, post.

4260-1. Jurisdiction of court limited.—That no court of the State of Minnesota as herein defined, shall have jurisdiction to issue any restraining order or temporary or permanent injunction in a case involving or growing out of a labor dispute, except in a strict conformity with the provisions of this Act; nor shall any such restraining order or temporary or permanent injunction be issued contrary to the public policy declared in this Act. (Act Apr. 22, 1933, c. 416, §1.)

Constitutional problems raised by our state statute are entirely different from those raised by any federal statute. Reid v. I., 200M599, 275NW300. See Dun. Dig. 9674.

Pleadings and affidavits held to show presence of a "labor dispute." Lichterman v. L., 204M75, 283NW752. See Dun. Dig. 4478b.

This act should be construed as being supplemental to Mason's Stats., §§4255 to 4260. Op. Atty. Gen., May 31, 1933.

Judicial intervention in internal affairs of labor unions. 20MinnLawRev657.

Minnesota labor disputes injunction act. 21MinnLaw Rev619.

Applicability of Norris-LaGuardia Act to inter-union disputes for recognition under National Labor Relations Act. 23MinnLawRev393.

Labor dispute as defined by anti-injunction act. 23 MinnLawRev549.

4260-2. Public policy declared.—In the interpretation of this Act and in determining the jurisdiction and authority of the courts of the State of Minnesota, as such jurisdiction and authority are herein defined and limited, the public policy of this state is hereby declared as follows:

Whereas under prevailing economic conditions, developed with the aid of governmental authority for owners of property to organize in the corporate and other forms of ownership association, the individual unorganized worker is commonly helpless to exercise actual liberty of contract and to protect his freedom of labor, and thereby to obtain acceptable terms and conditions of employment, wherefore, though he should be free to decline to associate with his fellows, it is necessary that he have full freedom of association, self-organization, and designation of representatives of his own choosing, to negotiate the terms and conditions of his employment, and that he shall be free from the interference, restraint, or coercion of employers of labor, or their agents, in the designation of such representatives or in self-organization or in other concerted activities for the purpose of collective bargaining or other mutual aid or protection; therefore, the following definitions of, and limitations upon, the jurisdiction and authority of the courts of the State of Minnesota are hereby enacted. (Act Apr. 22, 1933, c. 416, §2.)

4260-3. Certain acts not enforceable.—Any undertaking or promise, such as is described in this section, or any other undertaking or promise in conflict with the public policy declared in section 2 of this Act, is hereby declared to be contrary to the public policy of the State of Minnesota, shall not be enforceable in any court of this state and shall not afford any basis for the granting of legal or equitable relief by any court, including specifically the following:

Every undertaking or promise hereafter made, whether written or oral, express or implied, constituting or contained in any contract or agreement of hiring or employment between any individual firm, company, association, or corporation, and any employee or prospective employee of the same, whereby

(a) Either party to such contract or agreement undertakes or promises not to join, become, or re-

main a member of any labor organization or of any employer organization; or

(b) Either party to such contract or agreement undertakes or promises that he will withdraw from an employment relation in the event that he joins, becomes, or remains a member of any labor organization or of any employer organization. (Act Apr. 22, 1933, c. 416, §3.)

4260-4. Court may not issue restraining orders in certain cases.—No court of the State of Minnesota shall have jurisdiction to issue any restraining order or temporary or permanent injunction in any case involving or growing out of any labor dispute to prohibit any person or persons participating or interested in such dispute (as these terms are herein defined) from doing, whether singly or in concert, any of the following acts:

(a) Ceasing or refusing to perform any work or to remain in any relation of employment;

(b) Becoming or remaining a member of any organization or of any employer organization, regardless of any such undertaking or promise as is described in section 3 of this Act:

(c) Paying or giving to, or withholding from any person participating or interested in such labor dispute, any strike or unemployment benefits or insurance, or other moneys or things of value;

(d) By all lawful means aiding any person participating or interested in any labor dispute who is being proceeded against in, or is prosecuting, any action or suit in any court of this state.

(e) Giving publicity to the existence of, or the facts involved in, any labor dispute, whether by advertising, speaking, patrolling, or by any other method not involving fraud or violence:

(f) Assembling peaceably to act or to organize to act in promotion of their interests in a labor dispute;

(g) Advising or notifying any person of an intention to do any of the acts heretofore specified;

(h) Agreeing with other persons to do or not to do any of the acts heretofore specified; and

(i) Advising, urging, or otherwise causing or inducing without fraud or violence the acts heretofore specified, regardless of any such undertaking or promise as is described in section 3 of this Act. (Act Apr. 22, 1933, c. 416, §4.)

A claim for damages for past breach of contract is not a "labor dispute," and an injunction to prohibit picketing to force a settlement is not forbidden. Jensen v. S., 194M58, 259NW811. See Dun. Dig. 9674.

4260-5. Same.—No court of the State of Minnesota shall have jurisdiction to issue a restraining order or temporary or permanent injunction upon the ground that any of the persons participating or interested in a labor dispute constitute or are engaged in an unlawful combination or conspiracy because of the doing in concert of the Acts enumerated in section 4 of this Act. (Act Apr. 22, 1933, c. 416, §5.)

4260-6. Associations not to be responsible for acts of individuals.—No officer or member of any association or organization, and no association or organization participating or interested in a labor dispute, shall be held responsible or liable in any court of the State of Minnesota for the unlawful acts of individual officers, members, or agents, except upon clear proof of actual participation in, or actual authorization of, such acts, or of ratification of such acts after actual knowledge thereof. (Act Apr. 22, 1933, c. 416, §6.)

4260-7. Jurisdiction of court in certain cases.—No court of the State of Minnesota shall have jurisdiction to issue a temporary or permanent injunction in any case involving or growing out of a labor dispute, as herein defined, except after hearing the testimony of witnesses in open court (with opportunity for cross-examination) in support of the allegations of a complaint made under oath, and testimony in opposition thereto, if offered, and except after findings of fact by the court, to the effect—

(a) That unlawful acts have been threatened and will be committed unless restrained or have been committed and will be continued unless restrained, but no injunction or temporary restraining order shall be issued on account of any threat or unlawful act excepting against the person or persons, association, or organization making the threat or committing the unlawful act for actually authorizing or ratifying the same after actual knowledge thereof;

(b) That substantial and irreparable injury to complainant's property will follow;

(c) That as to each item of relief granted greater injury will be inflicted upon complaint by the denial of relief than will be inflicted upon defendants by the granting of relief:

(d) That complainant has no adequate remedy at law; and

(e) That the public officers charged with the duty to protect complainant's property have failed to furnish adequate protection.

Such hearing shall be held after due and personal notice thereof has been given in such manner as the court shall direct, to all known persons against whom relief is sought, and also to the chief of those public officials of the county and city within which the unlawful acts have been threatened or committed charged with the duty to protect complainant's property. Provided, however, that if a complainant shall also allege that, unless a temporary restraining order shall be issued without notice, a substantial and irreparable injury to complainant's property will be unavoidable, such a temporary restraining order may be issued upon testimony under oath, sufficient, if sustained, to justify the court in issuing a temporary injunction upon a hearing after notice. Such a temporary restraining order shall be effective until hearing and decision on the petition for a temporary injunction unless theretofore revoked by the court, which hearing shall be held within ten days after issuance of a temporary restraining order unless defendants ask for additional time, provided that any temporary restraining order so issued shall become void at the expiration of said period of 10 days, unless renewed. No temporary restraining order or temporary injunction shall be issued except on condition that complainant shall first file an undertaking with adequate security in an amount to be fixed by the court sufficient to recompense those enjoined for any loss, expense, or damage caused by the improvident or erroneous issuance of such order or injunction, including all reasonable costs (together with a seasonable attorney's fee) and expense of defense against the order or against the granting of any injunctive relief sought in the same proceeding and subsequently denied by the court.

The undertaking herein mentioned shall be understood to signify an agreement entered into by the complainant and the surety upon which a decree may be rendered in the same suit or proceeding against said complainant and surety, upon a hearing to assess damages of which hearing complainant and surety shall have reasonable notice, the said complainant and surety submitting themselves to the jurisdiction of the court for that purpose. But nothing herein contained shall deprive any party having a claim or cause of action under or upon such undertaking from electing to pursue his ordinary remedy by suit at law or in equity. (Act Apr. 22, 1933, c. 416, §7.)

Bill to enjoin minority of plaintiff's employees from interfering by violence or intimidation with contracts made between plaintiff and designated representatives of majority of his employees, does not present a substantial federal question within jurisdiction of a federal court where federal labor relations board has taken no action in matter, and hence court cannot retain cause to grant relief under local law. Lund v. W., (USDC-Minn), 19FSupp607.

If injunction suit be erroneously decided and, without findings of fact, an injunction issues upon ground that no labor dispute is presented, decision, even though erroneous, is not subject to collateral attack in proceedings to punish a violator for contempt. Reid v. L., 200M 599, 275NW300. See Dun. Dig. 4504.

(e).
A judgment of voluntary dismissal by agreement of parties to action in which a restraining order has been issued is not an adjudication that restraining order was improvidently or erroneously issued. American Gas Mach. Co. v. V., 204M209, 283NW114. See Dun. Dig. 4499.

4260-8. Same.—No restraining order or temporary or permanent injunction shall be granted in a case involving or growing out of a labor dispute, except on the basis of findings of fact made and filed by the court in the record of the case prior to the issuance of such restraining order or injunction; and every restraining order or injunction granted in a case involving or growing out of a labor dispute shall include only a prohibition of such specific act or acts as may be expressly complained of in the bill of complaint or petition filed in such case and as shall be expressly included in said findings of fact made and filed by the court as provided herein. (Act Apr. 22, 1933, c. 416, §8.)

4260-9. Court to certify proceedings to Supreme Court.—Whenever any court of the State of Minnesota shall issue or deny any temporary injunction in a case involving or growing out of a labor dispute, the court shall, upon the request of any party to the proceedings and on his filing the usual bond for costs, forthwith certify as in ordinary cases the record of the case to the Supreme Court for its review. Upon the filing of such record in the Supreme Court, the appeal shall be heard and the temporary injunctive order affirmed, modified, or set aside with the greatest possible expedition, giving the proceedings precedence over all other matters except older matters of the same character. (Act Apr. 22, 1933, c. 416, §9.)

In certiorari to review conviction for contempt in violating a temporary injunction, latter is under collateral attack which must fail unless injunction is shown to be a nullity. Reid v. L., 200M599, 275NW300. See Dun. Dig. 4504.

4260-10. Right to speedy trial.—In all cases arising under this Act in which a person shall be charged with contempt in a court of the State of Minnesota (as herein defined), the accused shall enjoy the right to a speedy and public trial by an impartial jury of the county and district wherein the contempt shall have been committed. Provided, that this right shall not apply to contempts committed in the presence of the court or so near thereto as to interfere directly with the administration of justice or to apply to the misbehavior, misconduct, or disobedience of any officer of the court in respect to the writs, orders, or process of the court. (Act Apr. 22, 1933, c. 416, §10.)

4260-11. Proceedings in contempt cases.—The defendant in any proceeding for contempt of court may file with the court a demand for the retirement of the judge sitting in the proceeding, if the contempt arises from an attack upon the character or conduct of such judge and if the attack occurred elsewhere than in the presence of the court or so near thereto as to interfere directly with the administration of justice. Upon the filing of any such demand the judge shall thereupon proceed no further, but another judge shall be designated in the same manner as is provided by law. The demand shall be filed prior to the hearing in the contempt proceeding. (Act Apr. 22, 1933, c. 416, §11.)

4260-12. Definitions.—When used in this Act and for the purposes of this Act—

(a) A case shall be held to involve or to grow out of a labor dispute when the case involves persons who are engaged in the same industry trade, craft or occupation; or have direct or indirect interests therin; or who are employees of the same employer; or who are members of the same or an affiliated organization of employers or employees; whether such dispute is (1) between one or more employers or associations of employers and one or more employees or associations of employees; (2) between one or more employers or associations of employers and one or more employers or associations of employers; or (3) between one or more employees or associations of employees and one or more employees or associations of employees or when the case involves any conflicting or competing interests in a "labor dispute" (as hereinafter defined) of "persons participating or interested" therein (as hereinafter defined).

(b) A person or association shall be held to be a person participating or interested in a labor dispute if relief is sought against him or it, and if he or it is engaged in the same industry, trade, craft, or occupation in which such dispute occurs, or has a direct or indirect interest therein, or is a member, officer, or agent of any association composed in whole or in part of employers or employees engaged in such industry, trade, craft, or occupation.

(c) The term "labor dispute" includes any controversy concerning terms or conditions of employment, or concerning association or representation of persons in negotiating, fixing, maintaining, changing, or seeking to arrange terms or conditions of employment, regardless of whether or not the disputants stand in the proximate relation of employer and employee.

(d) The term "court of the State of Minnesota" means any court of the State of Minnesota whose jurisdiction has been or may be conferred or defined or limited by Act of Legislature. (Act Apr. 22, 1933, c. 416, §12.)

What constitutes a labor dispute is a mixed question of law and fact. Reid v. L., 200M599, 275NW300. See Dun. Dig. 9674.

A labor dispute is presented in action of employer against labor union which threatens to resort to picketing because of employer's proposal to reduce prices charged his customers and thereby lessen compensation of numerous employees working on commission, though issue is not between employer and his own employees. Lichterman v. L., 204M75, 282NW689. See Dun. Dig. 4478b.

This section had no application to picketing of home of employer who discharged chauffeur and houseman, there being no "labor dispute," and picket was properly convicted of disorderly conduct under city ordinance. State v. Cooper, 285NW903. See Dun. Dig. 9674.

(c).
A claim for damages for past breach of contract is not a "labor dispute," and an injunction to prohibit picketing to force a settlement is not forbidden. Jensen v. S., 194M58, 259NW811. See Dun. Dig. 9674.

4260-13. Provisions separable.—If any provision of this Act or the application thereof to any person or circumstance is held unconstitutional or otherwise invalid, the remaining provisions of the Act and the application of such provisions to other persons or circumstances shall not be affected thereby. (Act Apr. 22, 1933, c. 416, §13.)

4260-14 Inconsistent acts repealed.—All Acts and parts of Acts in conflict with the provisions of this Act are hereby repealed. (Act Apr. 22, 1933, c. 416, §14.)

4260-15. Application.—This Act shall not be held to apply to policemen or firemen or any other public officials charged with duties relating to public safety. (Act Apr. 22, 1933, c. 416, §15.)

4260-21. Injunctions between employers in labor disputes.—Whenever any group of employers of labor, residing or operating in this state, have, by written agreement between themselves, agreed upon certain minimum wages to be paid to their employees, hours of labor, and/or other conditions of employment, and such agreement is wilfully violated, then, in that event, any one or more of such employers, parties to the agreement, may, by an appropriate action in a district court, make application for a restraining order, and/or temporary injunction, and/or permanent injunction, against the party or parties so violating said agreement, to restrain the violation thereof as to the minimum wages, hours of labor and the other conditions of employment specified in said agreement, and proof of wilful violation of said agreement in respect to any or either thereof, shall be sufficient grounds for the issuance of such restraining

order and/or temporary injunction and/or permanent injunction. (Act Apr. 24, 1935, c. 292, §1.)

4260-22. Limitation of act.—This act shall not apply to actions to enjoin the violation of open or closed shop agreements nor to actions to enjoin the violation of agreements or so-called codes of fair competition made or established pursuant to any state or Federal law. (Act Apr. 24, 1935, c. 292, §2.)

4260-23. Application of act.—The provisions of Laws 1933, Chapter 416 [§§4260-1 to 4260-15], shall not apply to actions or proceedings to which this act applies. (Act Apr. 24, 1935, c. 292, §3.)

APPRENTICES

4260-31. Purpose of act.—The purposes of this act are: to open to young people the opportunity to obtain training that will equip them for profitable employment and citizenship; to set up, as a means to this end, a program of voluntary apprenticeship under approved apprentice agreements providing facilities for their training and guidance in the arts and crafts of industry and trade, with parallel instruction in related and supplementary education; to promote employment opportunities for young people under conditions providing adequate training and reasonable earnings; to relate the supply of skilled workers to employment demands; to establish standards for apprentice training; to establish an apprenticeship council and local and state joint apprenticeship committees to assist in effectuating the purposes of this act; to provide for a director of apprenticeship within the department of labor and industry; to provide for reports to the legislature and to the public regarding the status of apprentice training in the state; to establish a procedure for the determination of apprentice agreement controversies; and to accomplish related ends. (Act Apr. 20, 1939, c. 363, §1.)

4260-32. Industrial commission to appoint apprenticeship council — Members — Duties — Meetings — Standards—Reports.—Subdivision 1. The Industrial Commission of Minnesota, hereinafter called the commission, shall appoint an apprenticeship council, composed of three representatives each from employer and employee organizations respectively, and of two representatives of the general public. The state official who has been designated by the state board for vocational education as being in charge of trade and industrial education shall ex officio be a member of said council. The terms of office of the members of the apprenticeship council first appointed by the commission shall expire as designated by the commission at the time of making the appointment: One representative each of employers, employees, and the public being appointed for one year, one representative each of employers, employees, and the public being appointed for two years, and one representative each of employers and employees for three years. Thereafter, each member shall be appointed for a term of three years. Any member appointed to fill a vacancy occurring prior to the expiration of the term of his predecessor shall be appointed for the remainder of said term.

Subdivision 2. The apprenticeship council shall meet at the call of the commission and shall aid it in formulating policies for the effective administration of this act. Subject to the approval of the commission, the apprenticeship council shall establish standards for apprentice agreements which in no case shall be lower than those prescribed by this act, shall issue such rules and regulations as may be necessary to carry out the intent and purposes of said act, and shall perform such other functions as the commission may direct. Not less than once every two years the apprenticeship council shall make a report through the commission of labor and industry of its activities and findings to the legislature and to the public. (Act Apr. 20, 1939, c. 363, §2.)

4260-33. Commission to appoint director of apprenticeship and assistants.—The commission is hereby directed to appoint a director of apprenticeship, which appointment shall be subject to the confirmation of the state apprenticeship council by a majority vote. The commission is further authorized to appoint and employ such clerical, technical, and professional help as shall be necessary to effectuate the purposes of this act. (Act Apr. 20, 1939, c. 363, §3.)

4260-34. Director and council to administer act.—The director, under the supervision of the commission and with the advice and guidance of the apprenticeship council, is authorized to administer the provisions of this act; in cooperation with the apprenticeship council and local and state joint apprenticeship committees, to set up conditions and training standards for apprentice agreements, which conditions or standards shall in no case be lower than those prescribed by this act; to act as secretary of the apprenticeship council and of such state joint apprenticeship committee; to approve, if in his opinion approval is for the best interest of the apprentice, any apprentice agreement which meets the standards established under this act; to terminate or cancel any apprentice agreement in accordance with the provisions of such agreement; to keep a record of apprentice agreements and their disposition; to issue certificates of completion of apprenticeship; and to perform such other duties as are necessary to carry out the intent of this act; provided, that the administration and supervision of related and supplemental instruction for apprentices, coordination of instruction with job experiences, and the selection and training of teachers and coordinators for such instruction shall be the responsibility of state and local boards responsible for vocational education. (Act Apr. 20, 1939, c. 363, §4.)

4260-35. Local and state committees to be appointed.—Local and state joint apprenticeship committees shall be appointed, in any trade by the apprenticeship council, whenever the apprentice training needs of such trade justifies such establishment. (Act Apr. 20, 1939, c. 363, §5.)

4260-36. Who are apprentices.—The term "apprentice" as used herein, shall mean a person at least 16 years of age who has entered into a written agreement, hereinafter called an apprentice agreement, with an employer, an association of employers, or an organization of employees, which apprentice agreement provides for not less than 4,000 hours of reasonably continuous employment for such person and for his participation in an approved program of training through employment and through education in related and supplemental subjects. (Act Apr. 20, 1939, c. 363, §6.)

4260-37. Apprentice agreements—Contents.—Every apprentice agreement entered into under this act shall contain:

(1) The names of the contracting parties.

(2) The date of birth of the apprentice.

(3) A statement of the trade, craft, or business which the apprentice is to be taught, and the time at which the apprenticeship will begin and end.

(4) A statement showing the number of hours to be spent by the apprentice in work and the number of hours to be spent in related and supplemental instruction, which instruction shall be not less than 144 hours per year. Provided, that in no case shall the combined weekly hours of work and of required related and supplemental instruction of the apprentice exceed the maximum number of hours of work prescribed by law for a person of the age and sex of the apprentice.

(5) A statement setting forth a schedule of the processes in the trade or industry divisions in which the apprentice is to be taught and the approximate time to be spent at each process.

(6) A statement of the graduated scale of wages to be paid the apprentice and whether the required school time shall be compensated.

(7) A statement providing for a perod of probation of not more than 500 hours of employment and instruction extending over not more than four months, during which time the apprentice agreement shall be terminated by the director at the request in writing of either party, and providing that after such probationary period the apprentice agreement may be terminated by the director by mutual agreement of all parties thereto, or cancelled by the director for good and sufficient reason.

(8) A provision that all controversies or differences concerning the apprentice agreement which cannot be adjusted locally shall be submitted to the director for determination as provided for in section nine.

(9) A provision that an employer who is unable to fulfill his obligation under the apprentice agreement may with the approval of the director transfer such contract to any other employer, provided, that the apprentice consents and that such other employer agrees to assume the obligations of said apprentice agreement.

(10) Such additional terms and conditions as may be prescribed or approved by the director not inconsistent with the provisions of this act. (Act Apr. 20, 1939, c. 363, §7.)

4260-38. To be approved by director.—No apprentice agreement under this act shall be effective until approved by the director. Every apprentice agreement shall be signed by the employer, or by an association of employers or an organization of employees and by the apprentice, and if the apprentice is a minor, by the minor's father; provided, that if the father be dead or legally incapable of giving consent or has abandoned his family then by the minor's mother; if both father and mother be dead or legally incapable of giving consent, then by the guardian of the minor. Where a minor enters into an apprentice agreement under this act for a period of training extending into his majority, the apprentice agreement shall likewise be binding for such a period as may be covered during the apprentice's majority. (Act Apr. 20, 1939, c. 363, §8.)

4260-39. Investigations by director—Appeals.—Subdivision 1. Upon the complaint of any interested person or upon his own initiative, the director may investigate to determine if there has been a violation of the terms of an apprentice agreement, made under this act, and he may hold hearings, inquiries, and other proceedings necessary to such investigation and determination. The parties to such agreement shall be given a fair and impartial hearing, after reasonable notice thereof. All such hearings, investigations and determinations shall be made under authority of reasonable rules and procedures prescribed by the apprenticeship council, subject to the approval of the commission.

Subdivision 2. The determination of the director shall be filed with the commission. If no appeal therefrom is filed with the commission within ten days after the date thereof, as herein provided, such determination shall become the order of the commission. Any person aggrieved by any determination or action of the director, may appeal therefrom to the commission, which shall hold a hearing thereon after due notice to the interested parties. Any person aggrieved or affected by any determination or order of the commission, may appeal therefrom to the district court having jurisdiction, at any time within 30 days after the date of such order by service of a written notice of appeal on said commission, or its secretary. Upon service of said notice of appeal, said commission, by its secretary, shall forthwith file, with the clerk of said district court to which said appeal is taken, a certified copy of the order appealed from, together with findings of fact on which the same is based. The person serving such notice of appeal shall, within five days after the service thereof, file the same with proof of service, with the clerk of the court to which such appeal is taken; and thereupon said district court shall have jurisdiction over said appeal, and the same shall be entered upon the records of said district court and shall be tried therein de novo according to the rules relating to the trial of civil actions, so far as the same are applicable. Any person aggrieved or affected by any determination, order or decision of the district court may appeal therefrom to the supreme court in the same manner as provided by law for the appeal of civil action. (Act Apr. 20, 1939, c. 363, §9.)

There is no section 10 in the act.

4260-41. Inapplicable to apprenticeships created by state board of control.—The provisions of this act shall have no application to those infants who are apprenticed by the state board of control pursuant to Mason's Minnesota Statutes of 1927, Sections 4472, 4473 and 4621. (Act Apr. 20, 1939, c. 363, §11.)

4260-42. Provisions severable.—If any provision of this act, or the application thereof to any person or circumstances, is held invalid, the remainder of the act, and the application of such provision to other person and circumstances, shall not be affected thereby. (Act Apr. 20, 1939, c. 363, §12.)

COMMON LAW DECISIONS RELATING TO TRADE UNIONS IN GENERAL

1. Rank and seniority.

A rule, which provides that a fireman who fails in his third examination for promotion to the position of engineer "shall be assigned and rank as the oldest extra fireman on the seniority district at the time he fails," reranks such fireman on list as if he had originally come into service as of a date prior to senior on extra board and junior to lowest man on regular runs. Casey v. B., 197M189, 266NW737. See Dun. Dig. 9674.

In action by employee of railroad for damages for breach of contract of employment made in his behalf by shop craft organization, court did not err in granting defendant's motion for a directed verdict because of lack of proof of a breach. Florestano v. N., 198M203, 269NW407. See Dun. Dig. 9674.

2. Remedies of members.

Provisions of the constitution of a voluntary nonprofit labor organization, requiring as a condition precedent to a resort to the courts, in any matter in which a member thereof feels aggrieved by the action of the organization or its officers, that such member first exhaust all remedies open to him within the organization, are valid, if the remedies so provided are reasonable. Skrivanek v. B., 198M141, 269NW111. See Dun. Dig. 4834.

3. Public employees.

Minneapolis Board of Education has no legal right to delegate its discretionary power to an arbitration committee in a labor dispute, but may appoint a committee to confer with a labor union to make proposals of adjustment. Op. Atty. Gen. (270d-9), March 23, 1939.

School janitors have right to unionize and to strike, subject to consequences accruing from violation of their contracts of employment and to loss of any civil service rights. Id.

4. Picketing.

A "home" is not an industrial or a business enterprise which may be picketed by a discharged employee; nor is it acquired or maintained for pecuniary gain or profit; but is, rather, an institution used and maintained as a place of abode (Divided court.) State v. Cooper, 285 NW903. See Dun. Dig. 9674.

An enterprise not conducted as a means of livelihood, or for profit, does not come within the ordinary meaning of such terms as "business," "trade," or "industry." (Divided court.) Id. See Dun. Dig. 9674.