

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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MASON PUBLISHING CO.
SAINT PAUL, MINNESOTA
1940

animals of each grade included in the purchase, the price per hundred pounds paid for the animals of each grade, the number of animals docked, the number of animals in each grade docked, and the amount of dockage of each grade and such other accounts, records and memoranda concerning his buying transactions as may from time to time be required by the commission, and the commission shall at all times have access to such accounts, records and memoranda and may at any time examine livestock purchased by buyer and may take such action as it deems necessary to prevent or discover violations of this act. (Act Apr. 20, 1935, c. 216, §9.)

5285-20. Scales must be tested regularly.—The buyers of slaughter livestock operating at concentration points shall have the scales upon which the animals are weighed, inspected and tested by a scale inspector of the state department of weights and measures at least once every thirty days at their own expense. All such scales shall be tested up to the maximum draft that may be weighed on the scales. (Act Apr. 20, 1935, c. 216, §10.)

Buyers of livestock must bear expense of testing and inspecting railroad stockyard scales at concentration point. Op. Atty. Gen. (495f-2), Oct. 14, 1935.

Expense of testing scales at union stockyards may not be charged against the stockyards company. Op. Atty. Gen. (371b-10), Nov. 20, 1935.

5285-21. Livestock must be fed before weighing.—The seller may require the buyer of his livestock to give the livestock such feed as it will consume during a two-hour period prior to weighing, the feed to be furnished by the buyer at the expense of the seller, and after such feeding the animals shall be given by the buyer free access to water until their thirst is

fully quenched. If, however, feeding is omitted, the actual scale weight shall apply as the sole basis for settlement with the shipper. (Act Apr. 20, 1935, c. 216, §11.)

Commission has no power to relax apparent requirement as to weighing and feeding of livestock at concentration points. Op. Atty. Gen. (371b-10), Aug. 29, 1936.

5285-22. Bonds to be filed with secretary of state.—All bonds required by this act shall be filed with the secretary of state. Suit may be brought thereon by any person injured by the misconduct of the principal. (Act Apr. 20, 1935, c. 216, §12.)

5285-23. Violations to be gross misdemeanor.—Any person who shall violate any of the provisions of this act, and for which violation no penalty is hereinbefore specified, shall be guilty of a gross misdemeanor and shall be punished for each such offense by a fine of not less than \$100.00 nor more than \$1,000.00, or by imprisonment in the county jail for not less than 30 days nor more than one year, or by both such fine and imprisonment. (Act Apr. 20, 1935, c. 216, §13.)

5285-24. Acts severable.—If any part or provision of this Act shall for any reason be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not impair nor invalidate any other part or provision in the remainder of the Act; and if any part or provision of this Act shall for any reason be adjudged by any such court constitutionally inapplicable to any case within the terms of such part or provision, such judgment shall not impair or invalidate such part or provision as applied to any other type of case within their terms. (Act Apr. 20, 1935, c. 216, §14.)

CHAPTER 28A-1

Telephone Companies

5287. Construction of "Telephone Company."

A telephone company after expiration of term of its original franchise, which was conditioned upon its furnishing to city free poles, wires, conductors, and conduits for its separate police and fire alarm systems, cannot be compelled by Railroad and Warehouse Commission to furnish such facilities to city; such use of its property not being a public use subject to commission supervision, but a strictly private use, to be covered, if at all, by voluntary contract. *City of St. Paul v. T.*, 193M484, 258 NW322. See Dun. Dig. 9583a.

5289. Rates to be fair and reasonable.

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

In determining rates, rural subscribers are not entitled to have considered profits made from advertisement in telephone directories. Id.

Co-operative farm line telephone companies come under jurisdiction of commission as provided in this section. Op. Atty. Gen., Mar. 2, 1933.

5290. Schedule of rates, etc.

Interstate business of telegraph and telephone companies comes under the federal law regulating commerce (Mason's U. S. Code. Title 49, Chap. 1.). 173M424, 217 NW336.

A telephone company after expiration of term of its original franchise, which was conditioned upon its furnishing to city free poles, wires, conductors, and conduits for its separate police and fire alarm systems, cannot be compelled by Railroad and Warehouse Commission to furnish such facilities to city; such use of its property not being a public use subject to commission supervision, but a strictly private use, to be covered, if at all, by voluntary contract. *City of St. Paul v. T.*, 193M484, 258 NW322. See Dun. Dig. 9583a.

5291. Commission to fix reasonable rates.

Act July 24, 1937, Sp. Ses., c. 98, §9, makes an appropriation of \$25,000 to constitute a revolving fund with which to conduct investigations of telephone rates. It is omitted as temporary.

Western Buse Telephone Co. v. N., 188M524, 248NW220; note under §5296.

Property included in exchange revenues are revenues derived from property used to render interurban service, the value of which property is included in the rate base,

and a share of the revenues derived from toll charges for long-distance calls originating in the area, provided such toll charges are not also assessed to subscribers and provided further that the share is related to the cost of the use of the facilities used and maintained to connect the subscribers' station to the toll switchboard. *State v. Tri-State Telephone & Telegraph Co.*, 204M516, 234NW294. See Dun. Dig. 8078a.

Within limits expenditures by public utilities by way of pension to superannuated employees should be treated as an expense of operation for ratemaking purposes. Id. See Dun. Dig. 8078a.

Action of commission respecting amount that should be allowed for advertising and canvassing will generally be sustained unless arbitrary. Id. See Dun. Dig. 8078a.

Reasonable amount for rate case expenses are allowable where utility prevails or rates fixed by commission are retroactive, but such expenses need not be allowed if rates charged are found to be greater than are fair and reasonable. Id. See Dun. Dig. 8078a.

In fixing the "fair value" of the property, it is proper to consider historical cost (the cost of the original plant plus additions, less retirements and accrued depreciation) provided consideration is given to changes in the price level; reproduction cost at the time of the inquiry, less accrued depreciation, provided the reproduction costs of the components can be found with reasonable certainty; the financial history of the company and all other relevant facts. Id. See Dun. Dig. 8078a.

Annual depreciation charges may be determined by computing and weighing the losses from depreciation for each class of property, provided there is some relation between the depreciation reserve fund and the amount of actual depreciation which has accrued. Id. See Dun. Dig. 8078a.

5295. Connections between telephone companies not discontinued.

In determining whether one is guilty of an offense under §5310 in severing the connection between a company's exchange and the rural telephone company, the fact that the connection was made under private arrangements and not pursuant to an order of the Railroad and Warehouse Commission would be immaterial. Op. Atty. Gen., April 7, 1931.

A nonstockholder served by co-operative farm line telephone company has no enforceable right where majority of stockholders disconnect line from exchanges of other companies. Op. Atty. Gen., Mar. 2, 1933.

Township telephone system may sever connection without consent of railroad and warehouse commission. Op. Atty. Gen. (434a-8), Apr. 24, 1936.

5296. Telephone companies required to permit physical connection.

Right to compel physical connection between telephone companies rests entirely in statutory law. Western Buse Telephone Co. v. N., 188M524, 248NW220.

Any rate for switching services between telephone companies is confiscatory if insufficient to constitute reasonable return on value of property used and services required. Id.

A sound method of apportionment of property jointly used in switching services is to base apportionment upon use which includes volume of traffic. Id.

Commission may disregard its own rules, which provide a method of determining cost of service stations' switching, when they are found inadequate or obsolete. Id.

Value of use is not shown by gross earnings. Id.

Neither joint property nor joint traffic expense can be apportioned on the per circuit basis. Id.

Testimony by competent valuation experts who have recently examined property and made estimates is preferable to mere calculations based on averages and assumed probabilities based on official reports. Id.

First step in arriving at value of telephone plant, or any public utility, is to ascertain its reproduction cost new, less depreciation. Id.

Depreciation is that diminution in value of property which takes place in physical thing and is ascertained by physical inspection. Id.

Depreciation which has been overcome by repairs and replacements is not considered. Id.

In fixing rate, company is entitled to any increase in value of property since it was acquired, but must stand loss of any shrinkage in value. Id.

Profits of the past cannot be used to sustain confiscatory rates for future. Id.

Rural companies receiving switching services are not entitled to credit for use of their lines and facilities by local exchange. Id.

Fact that company owning local exchange also owns toll lines occupying positions on its switchboard does not entitle rural subscribers to have toll lines share in expense incurred by exchange back of switchboard so as to, in any way, affect rates to be paid by them. Id.

5297. Free or reduced rates to officers, etc.

A telephone company after expiration of term of its original franchise, which was conditioned upon its furnishing to city free poles, wires, conductors, and conduits for its separate police and fire alarm systems, cannot be compelled by Railroad and Warehouse Commission to furnish such facilities to city; such use of its property not being a public use subject to commission supervision, but a strictly private use, to be covered, if at all, by voluntary contract. City of St. Paul v. T., 193M484, 258 NW822. See Dun. Dig. 9583a.

5298. Commission given power to delegate authority to employes.

Expenses incurred in valuing telephone properties may be paid out of regular appropriation to commission and later assessed against telephone company. Op. Atty. Gen. (98a-15), Dec. 17, 1937.

5299. Commission to grant authority for constructing telephone lines.

Duplication of telephone service is not to be regarded as contrary to the policy of the state, and it is to be permitted if the commission considers that it will promote public convenience by reducing rates so as to make it financially possible for greater number of persons to be served. Op. Atty. Gen. (93a-13), July 12, 1934.

5302. Municipalities given right to operate telephone exchanges.

Village council may sell or lease its telephone exchange without submission to electors. Op. Atty. Gen., Apr. 16, 1929.

5305. Commission given right to change annual depreciation charge.

Annual depreciation charges may be determined by computing and weighing the losses from depreciation for each class of property, provided there is some relation between the depreciation reserve fund and the amount of actual depreciation which has accrued. State v. Tri-State Telephone & Telegraph Co., 204M516, 284NW294. See Dun. Dig. 8078a.

5306. Companies given right to purchase property of other companies with consent of commission.

Section applies to sale of telephone exchange by a village. Op. Atty. Gen., Apr. 16, 1929.

Commission having consented to purchase of one telephone corporation by another had no power to thereafter revoke such order, and could take no official interest in proceedings before interstate commerce commission. Op. Atty. Gen., May 10, 1933.

5308. Mode of procedure for appeals from decisions of commission.

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

Rate making is a legislative and not a judicial function. Id.

Findings of trial court held to show that full consideration was given every element affecting the rate base, and valuation allowed by court is reasonably adequate. State v. Tri-State Telephone & Telegraph Co., 204M516, 284NW294. See Dun. Dig. 8078a.

5310. Violation a gross misdemeanor.

In determining whether severing of connections would be a violation of §5295, the fact that the connection between the lines of the companies was made under a private arrangement would be immaterial. Op. Atty. Gen., Apr. 7, 1931.

In a prosecution for severing connections of lines of two companies in violation of §5295, complaint must allege sufficient facts to bring both companies within the definition of the term "telephone company" as set forth in §5287. Op. Atty. Gen., Apr. 7, 1931.

5311-1. Burden of proof to be upon telephone company.—In any investigation, action or proceeding arising under, or growing out of, an action initiated by the Commission upon its own motion, the burden of proof shall be upon the telephone company to establish the reasonableness of the existing rates. (Apr. 24, 1937, c. 426, §1.)

5311-2. Telephone companies to pay expense of re-valuation.—(a) Whenever the Commission in a proceeding initiated upon its own motion, shall deem it necessary to ascertain and determine the value of any telephone property subject to its jurisdiction, or to investigate its revenues and expenses for rate making purposes, such telephone company shall be charged with and pay such portion of the compensation and expense of the commission, its officers, legal counsel, agents and employes, including legal counsel and employes temporarily employed, and all reasonable expenses and costs occasioned in sustaining in any court the determination or action of the commission in such investigations, valuations or revaluations, as is reasonably attributable to such investigations, valuations or revaluations, pending or hereafter brought, provided an opportunity to be heard thereon shall first have been granted to such telephone company.

(b) The commission shall ascertain the costs, including the compensation and expenses of the commission, its officers, legal counsel, agents and employes, and shall determine the amount to be paid by the telephone company and shall render a bill therefor by registered mail to the telephone company. Such bills shall be rendered from time to time, but not more often than monthly, during the progress before the commission of such investigation, valuation or revaluation, or upon its conclusion; provided, that a bill for the expenses and costs of any litigation directly involving any determination or order of the commission in such investigations, valuations or revaluations, shall be so rendered by the commission from time to time during the pendency of such litigation or upon final adjudication by any court.

(c) The amount of such bills so rendered by the commission shall be paid by the telephone company into the state treasury within 30 days from the date of rendition. The total amount which may be charged by the commission to any telephone company under authority of this section in 1939 shall not exceed one per cent and in any subsequent calendar year shall not exceed one-half of one per cent of such telephone company's gross operating revenues derived from intra-state telephone operations included within such investigation, valuation or revaluation in the last preceding calendar year. The amount assessed against a telephone company, not paid within 30 days after such rendition, shall draw interest at the rate of six per cent per annum. (Apr. 24, 1937, c. 426, §2; Apr. 20, 1939, c. 333, §1.)

Expenses incurred in valuing telephone properties may be paid out of regular appropriation to commission and later assessed against telephone company. Op. Atty. Gen. (98a-15), Dec. 17, 1937.

5311-2a. Same—Investigation fund—Appropriation.—The sum of \$25,000 is hereby appropriated out of any moneys in the state treasury not otherwise appropriated, to establish and provide a revolving fund to be known as the "Minnesota Telephone Investigation Fund" for the use of the Railroad and Warehouse Commission and of the Attorney General in investigations, valuations and revaluations under Section one hereof. All sums paid by the telephone companies pursuant to Section one shall be credited to said revolving fund and shall be deposited in a separate bank account or accounts and not commingled with any other state funds or moneys, but any balance in excess of \$25,000 in said revolving fund at the end of each fiscal year shall be paid into the state treasury and credited to the general fund. The said sum of \$25,000 herein appropriated and all subsequent credits to said revolving fund shall be paid upon the warrant of the state auditor upon application of the commission or of the Attorney General to an aggregate amount of not more than one-half of such sums to each of them, which proportion shall be constantly maintained in all credits and withdrawals from said revolving fund. (Act Apr. 20, 1939, c. 333, §2.)

5311-2b. Same—Provisions severable.—If any part, or parts, of the foregoing sections or subdivisions of this act, or the application thereof to any person or circumstances be held invalid, no other section, subdivision, clause, sentence, or provisions of this act shall be affected thereby. (Act Apr. 20, 1939, c. 333, §3.)

5311-2c. Same—Application of act.—The provisions of this act shall apply only to telephone companies operating within cities of the first and second classes. (Act Apr. 20, 1939, c. 333, §5.)

5311-3. Companies to report to commission. [Repealed.]

Repealed Apr. 20, 1939, c. 333, §4.

The repealed section consisted of Act Apr. 24, 1937, c. 426, §3.

5311-4. Expenditures not approved by commission not to be included. [Repealed.]

Repealed Apr. 20, 1939, c. 333, §4.

The repealed section consisted of Act Apr. 24, 1937, c. 426, §4.

5311-5. To what companies act shall apply.—The provisions of this Act shall apply only to telephone exchanges rendering service in cities of the first and second class and to toll properties of telephone companies operating toll lines in more than four counties of the state. (Apr. 24, 1937, c. 426, §5.)

5311-6. Provisions severable.—If any part, or parts, of the foregoing sections or subdivisions of this Act, or the application thereof to any persons or circumstances be held invalid, no other section, subdivision, clause, sentence, or provision of this Act shall be affected thereby. (Apr. 24, 1937, c. 426, §6.)

Sec. 7 of Act Apr. 24, 1937, cited, provides that the Act shall take effect from its passage.

5312. Town boards may construct telephone systems for fire protection.

Where an organized township constructs and maintains a town telephone system, under §§5312 to 5316 and furnishes ordinary telephone service thereby to private residents of township, town is engaged in operating a public utility and is liable for negligence of its officers and agents in so doing. *Storti v. T.*, 194M628, 261NW463. See *Dun. Dig.* 9658.

Fact that township owned telephone system is also operated in part for governmental purposes, for protection from forest and prairie fires, promoting public welfare, public health, and public safety, and facilitating work of public improvements, does not exempt town from liability for negligence in operating a public utility. *Id.*

A township telephone company organized under State Fire Protection law has no authority to buy an interest in an adjoining exchange without a vote of the township voters. *Op. Atty. Gen.*, Aug. 6, 1931.

On dissolution of township, it is discretionary with county board to maintain or refuse to take over township telephone lines. *Op. Atty. Gen.* (98c-3), July 28, 1934.

Town may appropriate money to co-operative telephone company if necessary for fire prevention. *Op. Atty. Gen.* (916b), Feb. 21, 1936.

County board cannot aid an unorganized township in construction and maintenance of a telephone line within its limits. *Op. Atty. Gen.* (125a-55), April 3, 1939.

5313. Town telephone lines outside corporate limits.

Township may connect its telephone system with telephone exchange located 20 miles outside township without any order of railroad and warehouse commission. *Op. Atty. Gen.* (98a-3), June 30, 1936.

5314. Tax levy for construction.

Where levy for one year is insufficient to construct telephone system the levies of several years may be accumulated until the fund is sufficient for the purpose. *Op. Atty. Gen.*, Apr. 24, 1930.

Town board has no authority to use the road and bridge fund to keep up the operating expenses of a township telephone company organized under State Fire Protection law. *Op. Atty. Gen.*, Aug. 6, 1931.

It was not the intention of the legislature that maintenance cost be paid by the township, and a town board has no authority to levy a tax to take care of non-payment of delinquent telephone fees. *Op. Atty. Gen.* (98c-3), July 28, 1934.

Township maintaining telephone lines mainly for fire protection may pay switching charges out of fire fund. *Op. Atty. Gen.* (98a-23), Nov. 30, 1938.

5315. Town meetings and town boards to fix rentals.

Town treasurer is entitled to retain 2% of town telephone and toll charges handled by him. *Op. Atty. Gen.* (434a-8), Mar. 25, 1938.

It is duty of town board to collect rental charges and toll charges, or to employ someone who can perform such duty, and town clerk or town treasurer are not obliged to handle such collections. *Id.*

5317. Local exchanges shall permit connection.

Township telephone system may sever connection without consent of railroad and warehouse commission. *Op. Atty. Gen.* (434a-8), Apr. 24, 1936.

Township may connect its telephone system with telephone exchange located 20 miles outside township without any order of railroad and warehouse commission. *Op. Atty. Gen.* (98a-3), June 30, 1936.

5318. Private owners may sell telephone lines to township—Railroad and Warehouse Commission to fix value.—When, under the provisions of this act, a township telephone system shall be established in any township wherein any of the inhabitants of such town are already provided with telephone service furnished by any other telephone company, person or persons, such township shall, when so requested by said telephone company, person or persons, acquire from said telephone company all telephone equipment used by said telephone company, person or persons, in furnishing telephone service to the inhabitants of such township exclusively. For the purpose of determining the purchase price of such equipment application shall be made to the state railroad and warehouse commission, whose duty it shall be thereupon to determine the just compensation which the owner of such telephone equipment is entitled to receive therefor from the township. Before deciding upon such compensation, said commission shall at a public meeting which may be adjourned from time to time hear all interested parties on the question involved. The commission shall by order fix the compensation and furnish a copy of its order to the township, and to the telephone company, person or persons concerned. An appeal may be taken to the district court of the county wherein such township is situated from that part of the order fixing the compensation to be paid, within thirty days, by either party, which appeal shall be tried the same as other appeals hereunder; if no such appeal is taken the order of the commission shall become final at the end of thirty days, and when appeal is taken the decision of the district court or of the supreme court, if taken there from the district court shall be final.

When, under the provisions of this act a township telephone system has been established in any township, and it has been determined by the board of supervisors of said township to be for the best interest of public service and all parties concerned, to sell and

transfer said township telephone system to any telephone company, person or persons giving service organized for that purpose and qualified to purchase said system and operate the same, the said board or supervisors shall have authority to sell, transfer, and convey said township telephone system upon such reasonable price and terms as it may determine, provided, that there shall be presented to the board of supervisors by a petition signed by at least twenty-five per cent of the freeholders of said township asking the sale thereof, and, if such sale and agreed sale price be approved at an annual or special town meeting, it being stated in the notice of such annual and special meeting that the proposition will be considered thereat, by sixty-six per cent of the legal voters attending such meeting.

If any township telephone lines are sold under the provisions of this act, and the township has theretofore issued bonds for the construction thereof, and any part of said bonds are then outstanding and unpaid; the entire consideration received from the sale, or such part as may be necessary, shall be held and applied only for the payment and retirement of such bonds. ('21, c. 439, §7; Apr. 11, 1929, c. 150, §1.)

A town board is without power to give away an interest which it has purchased in an adjoining exchange. Op. Atty. Gen., Aug. 6, 1931.

5319. Town boards to manage.—The town board of supervisors of any such township is hereby vested with all necessary authority to manage, maintain and operate any township telephone system constructed under the provisions of this act, and, to that end, may, among other things, contract for the connection of such township lines with exchanges owned by others for switching, lease the system for a reasonable compensation, local exchange and toll connections, hire and discharge such employees as may be necessary to operate and maintain such township system, establish rules and regulations, and, subject to the approval of the railroad and warehouse commission establish and from time to time change rates and charges, covering the service furnished to the users. ('21, c. 439, §8; Apr. 11, 1929, c. 150, §2.)

Town board may cancel out and refuse to connect with another exchange and operate its telephone service by house to house calls without a central exchange connection. Op. Atty. Gen., Aug. 6, 1931.

Town board has no authority to use the road and bridge fund to keep up the operating expenses of a township telephone company organized under State Fire Protection law. Op. Atty. Gen., Aug. 6, 1931.

One of three connected towns could not cut off the other towns. Op. Atty. Gen. (371b-13), May 14, 1936.

Town meeting or town board may permit persons other than town treasurer and clerk to handle collection of toll charges and fixed rentals. Op. Atty. Gen. (434a-8), Mar. 25, 1938.

CHAPTER 28B

Department of Banking—Division of Banking in Department of Commerce

5320. Department established.

Banking division of department of commerce created pursuant to Laws 1909, c. 201, as amended by Laws 1925, c. 426, art. 8, is a department of state government within meaning of §9677-1, and legislature contemplated administration of amount of fidelity bond for those for whom legislature has not fixed amount. Op. Atty. Gen. (980a-8), May 5, 1937.

5321. Superintendent of banks—Term—Qualifications—Bond.

It is not necessary that a formal commission of appointment be issued to acting commissioner of bank. Op. Atty. Gen. (29a-6), July 14, 1939.

5323. Powers and duties of superintendent.

179M217, 228NW926.
Duluth Morris Plan Company comes within provisions of section and gives commissioner of banks power and duty to safeguard rights of those dealing with it. Op. Atty. Gen., Jan. 19, 1933.

Whether Duluth Morris Plan Company may purchase of its own stock to hold for resale is a matter resting within discretion of commissioner of banks. Op. Atty. Gen., Jan. 19, 1933.

Where a variable clause appears in certificate of incorporation, commissioner of banks may insist on adoption of by-law fixing definite number of directors. Op. Atty. Gen. (29a-13), June 2, 1937.

5324. Supervision over banks and other financial corporations.

179M217, 228NW926.
Op. Atty. Gen., Jan. 19, 1933; note under §5323.

5325. Refusal to obey directions of examiner.

One is not excused by the absence of guilty knowledge or intention and his consequent moral innocence. 178M9, 225NW927.

This section applies whether the duty violated was imposed by the action of 1909 or by a prior statute. 179M217, 228NW926.

The offense consists in knowingly and intentionally or negligently failing to report, and it is error to reject evidence tending to show good faith and lack of knowledge that the report was false. 179M217, 228NW926.

Offense, held committed in Isanti County though report was sent by mail to Commissioner in Ramsey County. 179M217, 228NW926.

Rulings on evidence considered. 179M217, 228NW926.

5327. Employes in office of superintendent of banks.

Legislature intended to fix amount of fidelity assurance of deputy and twelve examiners, leaving amount

of bond for assistant and second assistant examiners to determination of administration, after passage of §9677-1. Op. Atty. Gen. (980a-8), May 6, 1937.

5328. State bank examiners or employees prohibited from holding bank stock.—No person who is a bank examiner or other officer or employee of the division of banking of the department of commerce of this state shall be interested, either directly or indirectly, as a stockholder, director, officer, trustee, assignee, employee, or otherwise, in any bank, savings bank, trust company, financial institution, or corporation holding the stock of any such a corporation within this state, or which carries on a banking business within this state, either directly or indirectly, or through an affiliated group or chain bank operating within this state. If the wife, or any other member of the household of a bank examiner or other officer or employee shall be so interested, it shall be conclusively presumed that said bank examiner or other officer or employee is indirectly interested in the corporation within the meaning of this act; but the meaning of the words "directly or indirectly" is not otherwise qualified. The provision of this section shall not apply to the Commissioner of Banks. ('15, c. 164, §1; Mar. 7, 1931, c. 43, §1.)

5328-1. Penalty for violation.—Any person violating the provisions of this act shall be disqualified from holding any office or employment in the division of banking of the department of commerce, and shall be removed from such office or employment by the commissioner of banks immediately upon knowledge of such violation. (Act Mar. 7, 1931, c. 43, §2.)

5332. Fees for examination of financial institutions.—Each bank, trust company, savings bank, local or general building and loan association and credit union organized under the laws of this state, shall pay into the state treasury for each authorized regular or special examination made at any time by the commissioner of banks of such institution, a fee to be determined as follows:

In the case of state banks, trust companies, or savings banks, for each examination a minimum fee of