

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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## CHAPTER 95

## Crimes Against the Sovereignty of the State

**9970. Wilful neglect of official duty.**

It is malfeasance in office for a police officer to give gamblers information and advice which is valuable to them in illegal operations. *State v. Raasch*, 201M158, 275 NW620. See Dun. Dig. 6589.

It was not prejudicial that those parts of telephone conversations which did not relate to subject-matter of accusation against defendant police officer were not recorded, or that defendant was not permitted to show that his actions in assisting and advising gamblers were under instruction from a superior officer. *Id.*

Village officers refusing to comply with section 1175 requiring publication of annual financial statement, would violate this section. *Op. Atty. Gen.*, Sept. 30, 1931.

Mayor of Minneapolis has no power to remove civil service commissioner from office. *Op. Atty. Gen.*, July 12, 1932.

Proper procedure with reference to improper conduct of justice of peace would be to advise with county attorney. *Op. Atty. Gen.*, Jan. 24, 1933.

President of water, light, power and building commission, may be compelled by mandamus to sign contract, voted by commission. *Op. Atty. Gen.* (469b-6), Apr. 11, 1934.

This section is violated by mayor who refuses to sign orders audited and allowed by city council. *Op. Atty. Gen.* (361f), Jan. 2, 1936.

City council has no authority to remove members of water and light commission, at least in absence of a conviction of an offense involving violation of official oath. *Op. Atty. Gen.* (358c-1), May 15, 1937.

**9971. Acting in public office without having qualified.**

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

## CHAPTER 96

## Crimes Against Public Justice

## BRIBERY AND CORRUPTION

**9980. Bribery of public officer or legislator.****1. What constitutes.**

Knowledge that offeree is an officer is an essential element of crime of bribing an officer. *State v. Lopes*, 201M20, 275NW374. See Dun. Dig. 1103.

**2. Indictment.**

An information for bribery, averring official character of offeree and that bribe was offered to him "as such officer," held good as against objection that it did not charge that accused knew that offeree was "such officer," overruling *State v. Howard*, 66Minn309, 68NW1096, 34LRA 178, 61AmStRep403. *State v. Lopes*, 201M20, 275NW374. See Dun. Dig. 1103.

Information is not defective because its charge was that offeree of bribe "was about to charge" defendant with crime, it being averred in that connection that offer was on condition that offeree, an officer, "would not arrest" and would "not prosecute" defendant. *Id.*

Evidence held to show offer of money and so a thing of value as charged. *Id.*

**9982. Bribery of public officer or legislator.**

This section is constitutional. 176M308, 223NW144. Variance between allegations and proof; admissibility of evidence. 180M450, 231NW225.

**9983. Asking or receiving bribes.****½. In general.**

Person convicted under §9983 in 1925 and incarcerated in the state penitentiary is not entitled to restoration of civil rights under §9944. *Op. Atty. Gen.* (1841), Mar. 29, 1935.

**2. Indictment.**

Indictment charging that defendant did "ask, agree to receive, and receive" a bribe, was not duplicitous or repugnant, and state need not elect. 178M437, 227NW497.

Proof of acceptance of credit on price of automobile not fatal variance from allegation of acceptance of money. 178M437, 227NW497.

Admissibility of evidence, and variance between allegations and proof. 180M450, 231NW225.

## RESCUES AND ESCAPES

**10005. Taking property from office.**

Owner of growing crops levied on by officer violates this section by feeding the crops to his live stock. *Op. Atty. Gen.*, Mar. 9, 1929.

**10012-1. Jumping bail a gross misdemeanor.**—Any person charged with or convicted of a felony who has been admitted to bail or released on recognizance in connection with such felony, and who wilfully fails to appear as required and thereby incurs a forfeiture of his bond or recognizance is guilty of a gross misdemeanor, if he does not appear or surrender himself within thirty days thereafter. (Act Apr. 17, 1935, c. 196.)

## PERJURY AND OTHER CRIMES

**10016. Perjury defined.****1. What constitutes.**

No conviction for perjury for untrue answers to questions after plea of guilty. 171M246, 213NW900.

Person intentionally making a false return in listing property for money and credits tax, if made under oath, is guilty of perjury, and one making false returns may also be guilty of a gross misdemeanor. *Op. Atty. Gen.* (133b-53), June 15, 1938.

**5. Evidence.**

Evidence held to sustain verdict of guilty of perjury. *State v. Olson*, 186M45, 242NW348. See Dun. Dig. 7476.

**10018. Knowledge of materiality not necessary.**

No conviction for perjury for untrue answers to questions after plea of guilty. 171M246, 213NW900.

**10028. Neglect of duty by officers, trustees, etc.**

If a recorder of a village fails to perform his duties, he may be prosecuted under this section, and his conviction would create a vacancy in his office under section 6953(5). *Op. Atty. Gen.*, Oct. 20, 1931.

This section is violated by mayor who refuses to sign orders audited and allowed by city council. *Op. Atty. Gen.* (361f), Jan. 2, 1936.

**10030. Arrest without authority.**

Railroad held liable for unlawful arrest by special agent at depot. 176M203, 223NW94.

If an intoxicating liquor inspector is rightfully within a place where non-intoxicating liquors are sold, he may seize intoxicating liquor for purpose of using same for evidence in a prosecution, but he may not search premises for intoxicating liquors, and in such case a search warrant is not necessary. *Op. Atty. Gen.* (218f), Feb. 5, 1935.

**10033. Resisting public officer.**

A sheriff cannot enter a home by force for purpose of levying an execution, but debtor is guilty of resisting an officer in refusing to give up the property. *Op. Atty. Gen.* (390a-6), Feb. 7, 1935.

State fire marshal may not use force to effect entry on premises for purpose of making inspection, but owner padlocking premises so that inspection may not be made is guilty of offense of resisting, delaying and obstructing a public officer in discharge of his duties. *Op. Atty. Gen.* (197c), May 9, 1935.

**10034. Compounding crimes.**

Complaint held not bad for duplicity, and evidence held to support conviction. 181M106, 231NW804.

**10042. Criminal contempts.**

Writ of prohibition will not be granted upon contention that criminal complaint does not charge a public offense for reason that alleged contemptuous publication related to matters which had been finally determined by court, since court had jurisdiction of person and of offense attempted to be charged and of determination of whether or not complaint stated a public offense. *State v. Laughlin*, 204M291, 283NW395. See Dun. Dig. 1703a.