

1944 Supplement
To
Mason's Minnesota Statutes, 1927
and
Mason's 1940 Supplement

Containing the text of the acts of the 1941 and 1943 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 Law Review Articles and digest of all common law decisions.

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check can be stopped, and may be stopped by purchaser as against one not a holder in due course. *Deones v. Zeches*, 212M260, 3NW(2d)432. See Dun. Dig. 995a.

7230. Certification of check—Effect of.

Since a certified check is in effect an accepted bill of exchange, it may be delivered for a special purpose. *Gilbert v. P.*, 206M213, 288NW153. See Dun. Dig. 879.

If drawer delivers check already certified the relations then between him and the payee or holder are the same as if check had not been certified, but it is otherwise where check is delivered without certification and holder has it certified. *Missouri-Kansas Pipe Line Co. v. S.*, 14Atl(2d)(Del)414.

7232. When check operates as an assignment.

A drawee bank is not contractually liable to the payee of a check in the absence of certification because there is no privity of contract. *Corbett v. K.*, (CCA6), 112F(2d) 511.

A gift by check is not an assignment of any part of fund in bank as between the parties and was an incomplete gift where not presented to bank before drawer was adjudged incompetent and court in guardianship properly disallowed claim. *Thornton's Guardianship*, 243Wis397, 10NW(2d)193. See Dun. Dig. 982.

7233-1. Banks receiving items for deposit or collection—Liability.

Payment of money by drawee bank to holder of check bearing false endorsement is not a payment of the check, and in law that check remains unpaid. *Borsierine v. M.*, (CCA8), 112F(2d)409.

Drawee of checks paying same upon payee's forged endorsement was not liable to payee on ground that it knew through one of its tellers that payee had not personally endorsed the checks and hence knew or should have known that payee's secretary who collected the money on such checks, was misappropriating the funds, where payee had frequently and ostentatiously expressed his confidence in such secretary and made known his extensive reliance upon her conduct of his business. *Corbett v. K.*, (CCA6), 112F(2d)511.

Agreement between bank and depositor as to signatures to be recognized upon checks upon certain accounts held not to render bank liable for recognizing a different signature upon another account of depositor. *Id.*

Where check was drawn on bank containing deposit of both drawer and payee and was deposited and credited to payee, but before it was charged against drawer's account, payment was stopped, bank could not avoid obligation to payee by charging bank amount of check. *W. A. White Brokerage Co. v. C.*, 207M239, 290NW790. See Dun. Dig. 787.

Whether or not an endorsement on a check is sufficient if made by authority of payee, it was no defense to an action against bank cashing check, where evidence did not disclose any such authority from payee, and written endorsement of payee was also forged upon the check by employee of payee who received proceeds from bank. *Soderlin v. Marquette Nat. Bank*, 214M408, 8NW(2d)331. See Dun. Dig. 984a, 997.

TITLE IV

GENERAL PROVISIONS

ARTICLE I

7235. Definitions and meaning of terms.

Passage of uniform negotiable instruments act without a limitation provision did not impliedly repeal state statute requiring a bank depositor to report forgeries within 6 months. *Brunswick Corp. v. Northwestern Nat. Bank & Trust Co.*, 214M370, 8NW(2d)333, 146ALR833. See Dun. Dig. 781.

7239. Application of act.

Plaintiff, a resident of Texas, cannot sue defendant, a resident of Texas, in Louisiana on a promissory note made in Texas, and lower court did not abuse its discretion in not giving reasons for declining jurisdiction though the law of Louisiana and Texas is the same on the subject, both states having adopted a Uniform Negotiable Instruments Act. *Union City Transfer v. F.*, 199 So(LaApp)206.

It was not intention of legislature in passing this act to supersede, amend or alter code of practice relative to procedure in enforcement of obligations. *Brock v. M.*, 200So(La)511.

MISCELLANEOUS PROVISIONS

7242. Contracts due on holidays, etc.

Under Michigan statutes, note falling due on Saturday was payable on next succeeding business day, which was Monday, and limitations began to run from then. *Schram v. C.*, (DC-Mich)35FSupp531.

7247. Instrument obtained by fraud.

Passage of uniform negotiable instruments act without a limitation provision did not impliedly repeal state statute requiring a bank depositor to report forgeries within 6 months. *Brunswick Corp. v. Northwestern Nat. Bank & Trust Co.*, 214M370, 8NW(2d)333, 146ALR833. See Dun. Dig. 1019.

CHAPTER 52

Partition Fences

7248. Fence viewers.

Members who are related to parties are not disqualified. *Op. Atty. Gen.* (631n), Sept. 14, 1943.

7249. One barbed wire permitted with woven wire as a legal fence.

Latter part of section refers only to woven wire fences, but several definitions of a legal fence contained in first part of section do not limit obligation of sharing expense only in case of woven wire fences. *Op. Atty. Gen.* (631f), Sept. 27, 1940.

Owner of property bounded on one side by a lake, 2 sides by a woven wire fence, can force adjoining landowner to erect a woven wire fence on his half of common boundary without fencing along lake. *Op. Atty. Gen.* (631J), Feb. 24, 1941.

Where owner of sheep has his land enclosed by a woven wire fence on three sides and half of common boundary, he cannot be prosecuted by adjoining owner for

permitting his sheep to run at large by crawling under five-wire fence maintained by complaining party, since he may be compelled to construct and maintain a woven wire fence. *Op. Atty. Gen.* (631h), Apr. 20, 1942.

An owner who has built a woven wire fence enclosing only 25 acres of his tract, with exception of half of line fence between him and adjoining owner, the latter is obliged to build half of the fence on the common boundary. *Op. Atty. Gen.* (631h), May 4, 1943.

7250. Occupants to maintain.

Land owner fencing farm on 3 sides with a 2-wire barb wire fence may compel adjoining owner to share in construction of a 3-wire barb wire fence on adjoining side. *Op. Atty. Gen.* (631f), Sept. 27, 1940.

School district owning a school house site and adjoining farmer come within general provisions of law, and department advises against barbed wire around school grounds. *Op. Atty. Gen.* (631L), Oct. 23, 1940.

CHAPTER 53

Estrays and Beasts Doing Damage

MISCHIEVOUS DOGS

7284. Owners or keepers of dogs liable for damage done.

Owner of a dog was not liable where it voluntarily went upon property of another and jumped upon possessor, causing her to fall and to sustain person injuries, unless dog was vicious or had a propensity to cause such

harm to owner's knowledge or notice. *Olson v. P.*, 206M 415, 288NW856. See Dun. Dig. 275.

One cannot obtain damages for injury to his own stock done by his own dog and a neighbor's dog, both of which he identified. *Op. Atty. Gen.* (146f), May 12, 1942.

There is no statutory liability imposed upon owner of a dog which kills a chicken, but this does not mean that owner may not be liable under rules of common law. *Op. Atty. Gen.* (146f), Aug. 29, 1942.

RUNNING AT LARGE OF CERTAIN ANIMALS**7295. Permitting to run at large unlawful.**

Rule that owner of live stock is bound at his peril to keep them from straying on lands of others and is liable for such trespasses and any harm done to land possessor or members of his household without regard to negligence or scienter on his part, does not apply to dogs. *Olson v. P.*, 206M415, 288NW856. See *Dun. Dig.* 275.

Where owner of sheep has his land enclosed by a woven wire fence on three sides and half of common boundary, he cannot be prosecuted by adjoining owner for permitting his sheep to run at large by crawling under five-wire fence maintained by complaining party, since he may be compelled to construct and maintain a woven wire fence. *Op. Atty. Gen.* (631h), Apr. 20, 1942.

7297-1. County board to license dogs. [Repealed.]

Act does not apply to a county which has not adopted the same. *Olson v. P.*, 206M415, 288NW856. See *Dun. Dig.* 276.

7297-41. County board may establish system of licensing dogs.—Subdivision 1. The board of county commissioners of any county is hereby authorized to establish a system of licensing and regulating the running at large of dogs, except in cities of the first class, and create a live stock indemnity fund to be handled and disbursed as hereinafter provided.

Before regulating and licensing, there must be filed with the county auditor a petition signed by at least 25 per cent of the persons actually engaged in raising live stock, including poultry, in the county as shown by the assessors' records, requesting the board to establish such system. When such petition has been filed, the board of county commissioners shall establish such system; or, the board of county commissioners may by a majority vote on their own motion and without petition, establish such system. The board of county commissioners shall exclude from the operation of this act burroughs, second, third and fourth class cities if such city has in operation a satisfactory law regulating dogs running at large.

Subdivision 2. At any time after such system has been in effect for a period of two years from the date of its establishment, it may be revoked by a majority vote of the board of county commissioners, but provided that before such revocation the board shall hold a public hearing and give at least ten days' notice of such hearing by publication in at least one newspaper published or circulating in the county. (As amended Apr. 5, 1943, c. 294, §1.)

Owner of a dog was not liable where it voluntarily went upon property of another and jumped upon possessor, causing her to fall and to sustain person injuries, unless dog was vicious or had a propensity to cause such harm to owner's knowledge or notice. *Olson v. P.*, 206M415, 288NW856. See *Dun. Dig.* 275.

County board may establish system immediately and charge a tax pro rata according to proportion of taxable year which remains after date of establishment. *Op. Atty. Gen.* (146d-2), March 11, 1940.

Upon filing of petition it is mandatory that county board establish system. *Op. Atty. Gen.* (146d-2), Feb. 28, 1941.

7297-42 Dogs must have licenses.—(1) In every county in which this act shall become operative every dog more than six months of age must have a license. The owner of any dog (the word "owner" when used in this act in relation to property in, or

possession of, dogs shall include every person who owns, harbors or keeps a dog) shall, on or before February 1st in each year, obtain a license for his dog, and shall pay for such license the fee prescribed by the county commissioners, which shall not be less than fifty cents nor more than one dollar for a male dog and not less than one dollar nor more than two dollars for a female dog; such payments to be made to the town, village or city clerk or deputy. The application for such license shall be in such written form as prescribed by the county auditor, and shall state the name, sex, breed, age, color and marking of the dog for which the license is sought. (As amended Apr. 5, 1943, c. 294, §2.)

(2) * * * * *

County board may not prorate license fee according to time of year when system is made effective, but same result may be reached by setting license fee for first year at less amount than for subsequent years. *Op. Atty. Gen.* (146d-2), Feb. 28, 1941.

7297-43. Assessor to list dogs—Kennels—Issuance of license.

Village assessor need not gather data mentioned in this section if system is not adopted. *Op. Atty. Gen.* (146a-2), Feb. 28, 1941.

7297-47. May seize dogs running at large.—(1)

Any person may seize, impound or restrain any unlicensed dog which he may find running at large. The fact that a dog is without a license attached to a collar shall be presumptive evidence that the dog is unlicensed. The sheriff and his deputies, any marshal or constable or other police officer shall seize, impound or strain any dog for which no license has been issued and for which one is required. Any officer who shall seize, restrain, impound or kill any dog found in any place without a license as required under sections 2 to 12, inclusive, upon delivery of such dog or carcass and the proper disposal of the carcass and after making a report to the village, town or city treasurer of the village, town or city in which the dog was seized or killed, showing that the dog did not have a license, shall receive therefore a payment of two dollars, the same to be made from any funds in the village, town or city treasury not otherwise appropriated.

The county auditor shall reimburse the township for any expense incurred under section 3 hereof and shall charge such expense to the dog license fund. (As amended Apr. 5, 1943, c. 294, §3.)

(2) * * * * *

Penal provision does not create a crime requiring procedure as in a criminal case, but violator may be proceeded against in a civil action by the state or county. *Op. Atty. Gen.* (146d-2), Nov. 9, 1943.

7297-48. Owners of domestic animals may file claim for damages.

Resident of another county cannot file a claim. *Op. Atty. Gen.* (293b-14), Oct. 30, 1941.

One cannot obtain damages for injury to his own stock done by his own dog and a neighbor's dog, both of which he identified. *Op. Atty. Gen.* (146f), May 12, 1942.

7297-49. May kill dogs in certain cases.

This section is effective even though county dog licensing system is not established. *Op. Atty. Gen.* (146a-2), Feb. 28, 1941

CHAPTER 54

Unclaimed Property

7298. Duty of consignee or bailee.

Disposition by municipal authority of vehicles abandoned upon street, highway, or city owned property. *Op. Atty. Gen.* (632d-1), Sept. 17, 1942.

7306. Unclaimed money in court, how disposed of, etc.

Rehabilitation, liquidation, conservation and dissolution of delinquent insurers. Laws 1943, c. 571.

COMMON LAW

DECISIONS RELATING TO CHAPTER
IN GENERAL**1. Lost property in general.**

Property taken from prisoner may be disposed of when owner cannot be found and property has been abandoned. *Op. Atty. Gen.* (91i), Sept. 4, 1942.

2. Unclaimed stolen property.

Disposal of stolen and abandoned property by bureau of criminal apprehension. Laws 1941, c. 389.