

CHAPTER 633

IN JUSTICE COURT

633.01 JURISDICTION OF JUSTICES OF THE PEACE.

A justice of the peace may adjourn proceedings during trial from day to day and for a longer time if exercising reasonable discretion. OAG Sept. 9, 1942 (266-B-11).

633.03 COMPLAINT; WARRANT.

In a criminal complaint under an ordinance all essential elements of the offense must be charged. The purpose to manufacture and/or sell is an essential of the nuisance of maintaining of which defendant was convicted; but he is not accused of any such purpose. *State v Tremont*, 185 M 101, 240 NW 118.

The complaint charging defendant with conducting a bag-cleaning industry in the light industrial zone of the city, where such industry is prohibited by a duly enacted zoning ordinance, states a public offense. *State v Miller*, 206 M 345, 288 NW 713.

633.05 ACTION, WHEN TRIED.

Where the charge involves a breach of a city ordinance, a continuance may in the discretion of the court be allowed to permit defendant an opportunity to prepare his defense. *City of Duluth v LaFleur*, 199 M 470, 272 NW 389.

633.08 ARRAIGNMENT; PLEA.

It is not the duty of a justice of the peace to advise the defendant that he is entitled to have assistance of counsel in his defense. *State ex rel v City of Red Wing*, 175 M 222, 220 NW 611.

Withdrawal of plea of guilty. 10 MLR 165.

633.09 ON PLEA OF GUILTY.

Under the provisions of section 169.94 an oral plea of guilty to a violation of the state highway regulation act is not admissible as evidence in a civil action. *Warren v Marsh*, 215 M 615, 11 NW(2d) 528.

633.16 TRIAL BY JURY.

Though the conviction might have been reversible on appeal, it could not be impeached collaterally on habeas corpus. *State ex rel v Phillips*, 73 M 77, 75 NW 1029.

The prosecution being under an ordinance defendant was not entitled to a jury. The evidence sustains a conviction under the ordinance prohibiting disorderly conduct. *State v Broms*, 139 M 402, 166 NW 771.

633.18 JUDGMENT ON CONVICTION.

Upon conviction of a violation of section 617.23 the justice may sentence the defendant to jail without the option of a fine. OAG July 6, 1945 (144-b-4).

633.20 APPEAL; REQUISITES.

The St. Paul city charter does not authorize the city to appeal from a judgment of acquittal of one tried for breach of an ordinance. *City of St. Paul v Stamm*, 106 M 81, 118 NW 154.

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The fact that an act which is a violation of a municipal ordinance is also an indictable offense under the state law does not prevent a summary trial under the ordinance and conviction without right of trial by jury. Following the decision in city of Red Wing v Nibbe, 160 M 274, 199 NW 918, the right of appeal after summary trial and conviction for a violation of a municipal ordinance may be denied. State, ex rel v Anderson, 165 M 150, 206 NW 51.

633.21 ALLOWANCE OF APPEAL.

The action of the lower court cannot be reversed where the return consists of the printed record only. The record contains no complaint, no findings, or verdict, and no judgment. State v Sterling, 173 M 610, 216 NW 533.

633.33 JUDGMENT ON CONVICTION; COMMITMENT; EXECUTION.

Where time for paying fine upon conviction is deferred, and part but not all of the fine is paid within the time allowed, the justice does not lose jurisdiction to commit the defendant. 1944 OAG 73, July 7, 1944 (266-B-11).