

# MASON'S MINNESOTA STATUTES

1927

---

PUBLISHED UNDER THE TERMS OF THE CONTRACT MADE BY THE  
STATUTE COMPILATION COMMISSION FOR THE PUBLICATION OF  
THE GENERAL STATUTES OF 1923

EMBRACING THE ORGANIC LAWS, THE CONSTITUTION, AND THE STAT-  
UTES CONTAINED IN THE GENERAL STATUTES OF 1923, EXCEPT  
THOSE WHICH HAVE BEEN REPEALED OR SUPERSEDED  
BY THE SUBSEQUENT LEGISLATION OF 1925  
AND 1927

AND ALSO EMBRACING LAWS OMITTED FROM THE GENERAL STATUTES  
1923, AND THE LAWS OF THE 1925 AND 1927 SESSIONS OF THE  
LEGISLATURE UNDER APPROPRIATE CLASSIFICATION.

COMPILED AND EDITED BY THE EDITORIAL STAFF OF THE  
CITER-DIGEST COMPANY

WILLIAM H. MASON,  
Editor in Chief.  
MARTIN S. CHANDLER,  
RICHARD O. MASON,  
Assistant Editors.

---

Citer-Digest Company  
St. Paul  
1927

disease, shall be guilty of a gross misdemeanor, and punished by a fine of not less than fifty dollars nor more than two hundred dollars. (5009) [8784]

**10272. Glandered animals**—Every owner or person having the care and control of a horse or other animal having the glanders, who shall knowingly permit such animal to run at large, or be driven upon any highway; or who shall sell, or in any manner dispose of, the same to any other person; and every keeper of a public barn, who shall knowingly permit any horse or other animal having such disease to be stabled in such barn—shall be guilty of a misdemeanor, and be punished by a fine of not less than twenty-five dollars, or by imprisonment in the county jail for not less than ten nor more than ninety days. (5010) [8785]

**10273. Carcasses of diseased animals to be disposed of**—Every person owning or having in charge any domestic animal that has died or been killed on account of disease shall immediately bury the carcass thereof at least three feet deep in the ground or cause the same to be consumed by fire. Provided, however, that the livestock sanitary board, through its secretary and executive officer, may issue a permit to owners of rendering plants, provided such rendering plants are operated and conducted as required by law, to remove carcasses of domestic animals and fowl that have died or have been killed on account of disease, over the public highways to their plants for rendering purposes in accordance with the rules and regulations adopted by the livestock sanitary board relative to transportation, rendering, and all other provisions deemed by said board to be necessary to prevent the spread of disease. No person shall sell or offer to sell, or give away such carcass when the animal died or was killed on account of disease, nor convey the same along any public road or upon any land not his own; unless in accordance with a special permit as hereinbefore provided. Nor shall any person negligently or willfull permit diseased

animals owned or controlled by him to escape his control or to run at large. Every violation of any provision of this act shall be a misdemeanor. (R. L. '05, § 5011; G. S. '13, § 8786; amended '21, c. 486, § 1; '27, c. 218)

**10274. Impure water**—Every owner, agent, manager, operator, or any one having charge of any water-works, furnishing water for public or private use, who knowingly permits the appliances of the same to become in a filthy condition, or in such condition that the purity and healthfulness of the water supplied by reason thereof becomes impaired, shall be guilty of a felony, and punished by imprisonment in the state prison for not more than ten years. (5012) [8787]

**10275. Careless distribution of drugs, etc.**—That no person, or persons, either directly or indirectly, by agent or otherwise, shall scatter, distribute or give away any samples of any medicine, drugs or medical compounds, salve or liniment of any kind unless the same is delivered into the hands of an adult person, or mailed to such persons through the regular mail service. ('05 c. 33 § 1) [8788]

**10276. Penalty**—Any person violating any provision of this act shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine not to exceed one hundred dollars, or by imprisonment in the county jail for a term not to exceed ninety days. ('05 c. 33 § 2) [8789]

**10277. Common drinking cups in public places**—In order to prevent the spread of communicable diseases, the use of common drinking cups in public places, public conveyances and public buildings, is hereby prohibited. ('13 c. 61 § 1) [8790]

**10278. Penalty**—Whoever violates the provisions of this act shall be deemed guilty of a misdemeanor and be liable to a fine not exceeding twenty-five dollars (\$25.00) for each offense. ('13 c. 61 § 2) [8791]

CHAPTER 100

CRIMES AGAINST THE PUBLIC PEACE

Disturbing meetings—Disorderly conduct.....	Sec. 10279
"Riot" defined .....	10280
Riot, how punished .....	10281
Unlawful assembly .....	10282
Remaining after property .....	10283
Destruction of property .....	10284
Combination to resist process.....	10285
Prize fighting—Aiding—Betting or stakeholding.	10286
Fight out of the state.....	10287
Apprehension of person about to fight—Bail—Commitment .....	10288
Forceful entry and detainer.....	10289
Aiming or discharging firearms, etc.....	10290
Use of firearms by minors.....	10291
Silencers for firearms .....	10292
Possession as evidence .....	10293
"Silencer" defined .....	10294
Penalty .....	10295
Offenses in public conveyances—Punishment.....	10296
Conductor—Authority to arrest, etc.....	10297
Witness not excused, when.....	10298
Language provocative of assault.....	10299
Wearing of masks prohibited.....	10300
Penalties .....	10301

punished by a fine of not less than five dollars nor more than fifty dollars. (5013) [8792]

**10280. "Riot" defined**—Whenever three or more persons, having assembled for any purpose, shall disturb the public peace by using force or violence to any other person or to property, or shall threaten or attempt to commit such disturbance, or to do an unlawful act by the use of force or violence, accompanied with the power of immediate execution of such threat or attempt, they shall be guilty of a riot. (5014) [8793]

**10281. Riot, how punished**—Every person who shall be guilty of riot, or of participating therein, by being present, or by instigating, promoting, or aiding the same, shall be punished as follows:

1. If the purpose of the assembly, or of the acts done, threatened, or intended by the persons engaged, shall be to resist the enforcement of a statute of this state or of the United States, or to obstruct any public officer of this state or the United States in serving or executing any process or other mandate of a court, or in the performance of any other duty, or if at the time of the riot the offender shall carry firearms or any other dangerous weapon, or shall be disguised, by

**10279. Disturbing meetings—Disorderly conduct**—Every person who, without authority of law, shall willfully disturb any assembly or meeting not unlawful in its character, shall be guilty of a misdemeanor, and

imprisonment in the state prison for not more than five years, or by a fine of not more than one thousand dollars, or by both.

2. If the offender shall direct, advise, encourage, or solicit other persons present or participating in the riot or assembly to acts of force or violence, by imprisonment in the state prison for not more than two years, or by a fine of not more than five hundred dollars, or by both.

3. In every other case, by imprisonment in the state prison for not more than one year, or by a fine of not more than two hundred and fifty dollars, or by both. (5015) [8794]

**10282. Unlawful assembly**—Whenever three or more persons shall assemble with intent—

1. To commit any unlawful act by force;

2. To carry out any purpose in such a manner as to disturb the public peace; or,

3. Being assembled, shall attempt or threaten any act tending toward a breach of the peace or an injury to persons or property, or any unlawful act—

Such an assembly is unlawful, and every person participating therein by his presence, aid, or instigation shall be guilty of a misdemeanor. (5016) [8795]

**10283. Remaining after warning**—Every person who shall remain present at the place of an unlawful assembly, after having been warned to disperse by a magistrate or public officer, unless as a public officer or at the request of any such officer he is assisting in dispersing the same, or in protecting persons or property or in arresting offenders, shall be guilty of a misdemeanor. (5017) [8796]

**10284. Destruction of property**—Whenever any of the persons so unlawfully assembled shall pull down or destroy any dwelling house or other building, or any shop, steambot, or vessel, he shall be punished by imprisonment in the state prison for not less than three nor more than seven years, or by fine of not more than one thousand dollars. (5018) [8797]

20-136, 119.

**10285. Combination to resist process**—Every person who enters into a combination with another to resist the execution of any legal process or other mandate of a court of competent jurisdiction, under circumstances not amounting to a riot, shall be guilty of a gross misdemeanor. (5019) [8798]

**10286. Prize fighting—Aiding—Betting or stakeholding**—Every person who, within this state, shall engage in, instigate, aid, encourage, or do any act to further an encounter or fight with or without weapons between two or more persons, or a fight commonly called a ring or prize fight, or an encounter commonly called a sparring match, in which the combatants are provided with gloves, whether such fight or encounter shall take place within or without the state; or who shall send or publish a challenge or acceptance of a challenge for such an encounter or fight; or who shall carry or deliver such a challenge or acceptance, or shall train or assist any person in training or preparing for such an encounter or fight; or who shall bet, stake, or wager money or other property upon the result of such encounter or fight; or who shall hold or undertake to hold money or other property so staked or wagered to be delivered to or for the benefit of the winner thereof—shall be guilty of a misdemeanor. (5020) [8799]

**10287. Fight out of the state**—Every person who shall leave the state with intent to elude any provision of § 10286, or to do any act out of the state which is prohibited therein, and every resident of the state

who shall do any act out of the state which would be punishable under § 10286 if done in the state, shall be guilty of the same offense and subject to the same punishment as if the act had been done in the state. An indictment for such offense may be tried in any county in the state. (5021) [8800]

**10288. Apprehension of person about to fight—Bail—Commitment**—Whenever it shall be made to appear to any magistrate having authority to issue warrants in criminal cases that there is reasonable grounds to apprehend that an offense specified in §§ 10286, 10287 is about to be committed within his jurisdiction, or by any person therein, he shall issue his warrant for the arrest of the person or persons so about to offend, and if upon any such person being brought before him it shall appear that there is reasonable ground to believe that he is about to commit such offense he shall require him to give bond to the state, approved by him, in a sum not exceeding one thousand dollars, with or without sureties, conditioned that such person shall not within one year thereafter commit such offense. On failure to furnish such bond such person shall be committed to the county jail until duly discharged by the district court; but upon furnishing the required bond he may be released upon habeas corpus. The sureties of the bond herein specified shall be approved by the officer taking it. (5022) [8801]

**10289. Forcible entry and detainer**—Every person using, or procuring, or encouraging, or assisting another to use any force or violence in entering upon or detaining any lands or other possessions of another, except in the cases and in the manner allowed by law, and every person who has been removed from any lands by process of law, or who has removed therefrom pursuant to the lawful adjudication or direction of any court, tribunal, or officer, and afterwards, without authority of law, returns to settle or reside upon, or take possession thereof, shall be guilty of a gross misdemeanor. (5023) [8802]

**10290. Aiming or discharging firearms, etc.**—Every person who shall aim any gun, pistol, revolver, or other firearm, whether loaded or not, at or towards any human being, or who shall wilfully discharge any firearm, air gun, or other weapon, or throw any deadly missile, in a public place, or in any place where there is any person to be endangered, although no injury actually results, shall be guilty of a misdemeanor. (5024) [8803]

131-427, 155+399.

**10291. Use of firearms by minors**—No minor under the age of fourteen years shall handle, or have in his possession or under his control, except while accompanied by or under the immediate charge of his parent or guardian, any firearm of any kind for hunting or target practice or any other purpose. Every person violating any of the foregoing provisions, or aiding or knowingly permitting any such minor to violate the same, shall be guilty of a misdemeanor. (5025) [8804]

100-294, 111+279; 149-206, 183+134.

**10292. Silencers for firearms**—No person shall within the state of Minnesota sell or offer or expose for sale, or have in possession for use upon or in connection with any rifle, shot-gun, revolver, or other firearm or have in possession for purposes of sale any silencer for a shot-gun, revolver, rifle or other firearm. ('13 c. 64 § 1) [8806]

**10293. Possession as evidence**—In any prosecution hereunder proof of the having such silencer in possession by any person shall constitute prima facie evi-

dence that same was had in possession of such person for use contrary to the provisions of this act. ('13 c. 64 § 2) [8807]

10294. "Silencer" defined—A silencer within the meaning of this act is defined as a mechanical device or construction or instrument designed or intended to be temporarily or permanently attached to or used in connection with any shot-gun, revolver, rifle, or other fire-arm for the purpose of lessening or reducing the volume of sound caused by the discharge of or by the firing of such gun, rifle, revolver or other fire-arm. ('13 c. 64 § 3) [8808]

10295. Penalty—Any person violating any of the provisions of this act shall be guilty of a misdemeanor. ('13 c. 64 § 4) [8809]

10296. Offenses in public conveyances—Punishment—Every person who shall wilfully use profane, offensive, or indecent language, or engage in any quarrel in any railway or street railway car or other public conveyance, or shall interfere with or annoy any passenger therein, or, having refused to pay the proper fare, shall fail to leave any such conveyance upon demand, or, with the intent to avoid the payment of fare, shall ride upon any car not commonly used for the carriage of passengers, or shall take any dog into any such car or conveyance or smoke therein contrary to the rules of the corporation or person operating the same, shall be guilty of a misdemeanor. (5026) [8810]

10297. Conductor—Authority to arrest, etc.—Every conductor of a railway train, with or without warrant, may arrest any person committing any act specified in § 10296, and take him before a magistrate or to the next railway station, and deliver him to the proper officer, or to the station agent, who shall take such person before the proper magistrate or deliver him to such officer. Every such conductor and station agent

shall in such case possess all the powers of a sheriff with a warrant. (5027) [8811]

10298. Witness not excused, when—No person shall be excused from giving evidence upon an investigation or prosecution for any offense specified in this subdivision upon the ground that his testimony might tend to convict him of a crime. (5028) [8812]

10299. Language provocative of assault—Any person who shall use in reference to and in the presence of another, or in reference to or in the presence of any member of the family of another, abusive or obscene language, intended, or naturally tending to provoke an assault or any breach of the peace, shall be guilty of misdemeanor. ('07 c. 96 § 1) [8813]  
116-1, 133,86.

10300. Wearing of masks prohibited—It shall be unlawful for any person either alone or in company with others, to appear on any street or highway, or in other public places or any place open to view by the general public, with his face or person partially or completely concealed by means of a mask or other regalia or paraphernalia, with intent thereby to conceal the identity of such person. The wearing of any such mask, regalia or paraphernalia by any person on any street or highway or in other public places or any place open to view by the general public, shall be presumptive evidence of wearing the same with intent to conceal the identity of such person; provided, however, that this act shall not be construed to prohibit the wearing of such means of concealment in good faith for the purposes of amusement or entertainment. ('23 c. 160 § 1)

10301. Penalties for violation—Every person violating any of the provisions of this act shall be deemed guilty of a misdemeanor. ('23 c. 160 § 2)

CHAPTER 101

CRIMES AGAINST PROPERTY

Misappropriation and falsification of accounts by public officers	10302
Other violations by officers	10303
Misappropriation, etc., by county treasurer	10304
Officer interest in contract	10305
False statement regarding taxes	10306
Wilful trespass on pine lands, how punished	10307
Crimes Against Other Property, § 10308.	
Definitions	10308
Arson §§ 10309-10313.	
First degree	10309
Second degree	10310
Third degree	10311
Contiguous buildings	10312
Ownership of building	10313
Burglary, §§ 10314-10320.	
First degree	10314
Same	10315
Second degree	10316
Third degree—Every person who	10317
Unlawfully entering building	10318
Crime in building, punished separately	10319
Making or having burglars' tools	10320
Forgery, §§ 10321-10335.	
Definitions	10321
First degree	10322
False certificate to certain instruments	10323
First degree, how punished	10324
Second degree	10325
Second degree, how punished	10326

Forgery in the third degree	10327
Concealing larceny, etc., forgery	10328
Forging passage tickets	10329
Forging postage or revenue stamps	10330
Forgery in third degree, how punished	10331
Officer of corporation selling shares	10332
Falsely indicating person as corporation officer	10333
Uttering forged instruments, coins, etc., forgery	10334
Uttering writing signed with wrongdoer's name	10335
Counterfeiting—Fraudulent Practices, §§ 10336-10357.	
Possession of counterfeit coin	10336
Advertising counterfeit money	10337
False certificate of registration of animals—False representation as to breed	10338
Wilful false branding of animals	10339
Counterfeiting trademark, brand, etc.—How punished	10340
Possession of dies, plates, etc.—How punished	10341
Selling goods having false stamp—How punished	10342
Affixing false stamps—How punished	10343
False branding by manufacturer	10344
Trademark—When deemed affixed	10345
Trademarks of workmen's unions	10346
Counterfeiting or dealing in counterfeits—How punished	10347
Registration	10348
Fraudulent registration or use—Penalty	10349
Certificates—Illegal use—Penalty	10350
Incriminating evidence	10351
False stamping of articles of gold or silver	10352
Standards defined—Improper Stamping—Penalties	10353
Gold plate—False stamping—Penalty	10354
Silver plate—False stamping—Penalty	10355

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.



Edited by  
**William H. Mason**  
*Assisted by*  
**The Publisher's Editorial Staff**

MASON PUBLISHING CO.  
SAINT PAUL, MINNESOTA  
1940

hemp or Indian hemp weeds within the state of Minnesota, to be eradicated, except such as are licensed in accordance with the provisions hereinafter for commercial uses. The commissioner of agriculture shall make rules and regulations relating to the most convenient and expedient method of eradicating and destroying such Indian hemp or Indian hemp weeds; and the agents and employes of his department shall have power to enforce the provisions of this act and the regulations issued hereunder, and the commissioner of agriculture or his agents and employes shall have free access at all reasonable hours to any premises to determine whether such Indian hemp or Indian hemp weeds are growing thereon, and to require reports from the owners or occupants as to the presence of such Indian hemp or Indian hemp weeds. (Act Apr. 22, 1939, c. 405, §2.)

**10278-13. To notify owner of premises.**—In pursuance of the powers hereby granted, whenever the commissioner of agriculture or his agents or employes shall have found Indian hemp or Indian hemp weeds on any premises, it shall be the duty of the commissioner of agriculture, his agents or employes as the case may be, to immediately notify or cause to be notified the owner or occupant of the premises, on which such Indian hemp or Indian hemp weeds are growing to eradicate and destroy such Indian hemp or Indian hemp weeds; such notice to be sent to such owner or occupant in such form as the commissioner of agriculture shall prescribe, and if such Indian hemp or Indian hemp weeds are not destroyed within twenty days after the mailing of such notice, if sent by registered mail, or within twenty days after delivery of such notice, if delivered by messenger, the commissioner of agriculture, his agents or employes, shall destroy or cause to be destroyed such Indian hemp or Indian hemp weeds. Whenever any owner or occupant of land to whom such a notice has been mailed or upon whom a notice has been served, fails and omits to eradicate and destroy any Indian hemp or Indian hemp weeds within the time required by this act, and such eradication and destruction of the Indian hemp or Indian hemp weeds is undertaken or caused by the commissioner of agriculture, his agents or employes, the commissioner of agriculture shall file a verified and itemized statement of the costs of all services rendered in connection with the mailing or serving of the notice and the eradication and destruction of such Indian hemp or Indian hemp weeds on each separate tract or lot of land with the county auditor or with the clerk of the city or the village in which such lands are located; and such statement shall be authority for immediate issuance by such county auditor or clerk of proper warrants to the persons named therein for the amount specified. The amount of such expenses shall constitute and be a lien in favor of the county, the village, or the city as the case may be, against the land involved, and shall be

certified to by the county auditor, the village or the city clerk, and entered by the county auditor on his tax books as a tax upon such land, and shall be collected in the same manner as other real estate taxes are collected. The amount of such expenses, when collected, shall be used to reimburse the county, the village, or the city for its expenditures in this regard. Where the lands involved are located in unorganized territory, the expense of eradicating or destroying such weeds shall be paid by the county auditor out of the general revenue fund of said county, upon the verified and itemized statement of the commissioner of agriculture, and the amount of such payment shall be entered by him on the tax books as a tax on such lands and shall constitute and be a lien in favor of such county against the lands involved, and shall be collected in the same manner as other real estate taxes are collected. (Act Apr. 22, 1939, c. 405, §3.)

**10278-14. Growing for commercial purpose—Licenses.**—Growing or maintenance of Indian hemp or Indian hemp weeds is permitted only for commercial uses as hereinafter defined. Commercial uses are such adaptations of Indian hemp or Indian hemp weeds as are necessary and proper for the manufacture of rope, sacks, and other sisal hemp products and such other non-injurious commercial products, including the manufacture of batts, yarn, thread, cordage, merchandise, cloth, and such other products as may be made from linen fiber, as have been or may be developed; submitted to the commissioner, and approved by him. The commissioner of agriculture is hereby authorized and it shall be his duty to license and authorize the growing of Indian hemp or Indian hemp weeds when the derivatives thereof are to be used solely for the commercial uses herein defined. Any person desiring to grow Indian hemp or Indian hemp weeds for commercial purposes as herein defined, shall file an application for a license therefor with the commissioner of agriculture, giving a description and the area of land intended to be so used. The commissioner shall issue a license to the applicant for the growing of such Indian hemp or Indian hemp weeds for such commercial uses as are specified in the application and license, and the growing of Indian hemp or Indian hemp weeds, pursuant to the terms of the license issued by the commissioner of agriculture shall be lawful to the extent granted by said license. (Act Apr. 22, 1939, c. 405, §4.)

**10278-15. Licensee to notify commissioner.**—Any person to whom a license for commercial growing of Indian hemp or Indian hemp weeds, shall notify the commissioner of the sale or distribution thereof, and the names of the persons to whom such Indian hemp or Indian hemp weeds are sold or distributed. (Act Apr. 22, 1939, c. 405, §5.)

**10278-16. Violation a misdemeanor.**—Any person who shall violate any provision hereof, shall be guilty of a misdemeanor. (Act Apr. 22, 1939, c. 405, §6.)

## CHAPTER 100

### Crimes Against The Public Peace

#### 10279. Disturbing meetings—Disorderly conduct.

Person picketing residence of foreman of an employer whose employes were on strike, carrying a banner, "A scab lives here" constituted disorderly conduct under city ordinance. *State v. Perry*, 196M481, 265NW302. See Dun. Dig. 2751a.

Conviction of disorderly conduct held sustained by evidence of attempt to pick up girls. *State v. Birdseye*, 198 M231, 269NW459. See Dun. Dig. 2751a.

Conduct is disorderly when it is of such nature as to affect peace and quiet of persons who may witness same and who may be disturbed or provoked to resentment thereby, probable and natural consequences of conduct being important element. *State v. Cooper*, 285NW903. See Dun. Dig. 2751a.

Defendant's conduct in carrying a large banner, some three feet in length, on each side of which was printed the words: "Unfair to Private Chauffeurs and Helpers Union," immediately in front of a private home located in an exclusive residential district, held to justify finding of disorderly conduct in that it was likely to arouse anger, disturbance or violence. *Id.* See Dun. Dig. 2751a.

#### 10280. "Riot" defined.

*Strutwear Knitting Co. v. O.*, (USDC-Minn), 13FSupp 384.

Essential elements of crime of riot are: an assemblage of three or more persons for any purpose; use of force or violence against property or persons, or an attempt or threat to use force or violence or to do any other unlawful act coupled with power of immediate execution;

and a resulting disturbance of the public peace. *State v. Winkels*, 204M466, 283NW763.

The public peace means that tranquillity enjoyed by a community when good order reigns amongst its members. *Id.*

Common purpose can be inferred from circumstances and acts committed. *Id.*

A person may be convicted for riot even though not actively engaged therein when he was present and ready to give support if necessary. *Id.*

In a prosecution for rioting, where defendant's counsel on cross examination asked sheriff to explain his presence at the place of the riot, it was proper to have sheriff tell of events which occurred several days before. *Id.* See *Dun. Dig.* 3233.

In a prosecution growing out of a riot at a store, employees of the store were properly permitted to testify as to their reason for retiring to remote parts of store, and reason for taking a policeman with them when they passed through the crowd. *Id.* See *Dun. Dig.* 3233.

#### 10281. Riot, how punished.

*Strutwear Knitting Co. v. O.*, (USDC-Minn), 13FSupp 384.

#### 10282. Unlawful assembly.

*Strutwear Knitting Co. v. O.*, (USDC-Minn), 13FSupp 384.

#### 10283. Remaining after warning.

*Strutwear Knitting Co. v. O.*, (USDC-Minn), 13FSupp 384.

#### 10285. Combination to resist process.

*Strutwear Knitting Co. v. O.*, (USDC-Minn), 13FSupp 384.

#### 10286. Prize fighting—Aiding—Betting or stakeholding.

Repealed by Act Jan. 28, 1933, c. 7, §17, effective May 1, 1933, so far as inconsistent with the repealing act (§§3260-1 to 3260-18).

Since the enactment of Laws 1915, c. 363, contract for management of prize fighter is not illegal. *Safro v. L.*, 184M336, 238NW641.

#### 10287. Fight out of the state.

*Safro v. L.*, 184M336, 238NW641; note under §10286.

#### 10288. Apprehension of person about to fight—Bail, etc.

*Safro v. L.*, 184M336, 238NW641; note under §10286.

#### 10289. Forcible entry and detainer.

One moving back day following his removal under writ of restitution and using seed and grain belonging to owner is not guilty of trespass but may be prosecuted for larceny and also for unlawful entry. *Op. Atty. Gen.* (494b-20), Nov. 26, 1934.

#### 10290. Aiming or discharging firearms, etc.

*Strutwear Knitting Co. v. O.*, (USDC-Minn), 13FSupp 384.

A landlord who shot windows out of house with shot gun for sole purpose of forcing tenants to move, without intent to hit anyone, could be prosecuted under this section, but would not be guilty of assault. *Op. Atty. Gen.* (494b-4), Aug. 29, 1934.

#### 10291. Use of firearms by minors.

A father who furnished him with the pistol cannot be held liable for an accidental shooting by his son, in the absence of evidence that, because of youth, mental deficiency, recklessness, or other cause, it was unsafe to intrust the son with the weapon, and that the father was chargeable with knowledge of that fact. *Clarine v. A.*, 182M310, 234NW295. See *Dun. Dig.* 4466, 10200.

Since a minor under fourteen can hunt protected game only on home premises of his parent or guardian, he can have a bag limit of game only if it was taken on such premises. *Op. Atty. Gen.* (209g), Sept. 19, 1934.

#### 10299. Language provocative of assault.

*Strutwear Knitting Co. v. O.*, (USDC-Minn), 13FSupp 384.

## CHAPTER 101

### Crimes Against Property

#### 10302. Misappropriation and falsification of accounts by public officers.

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.

#### 10303. Other violations by officers.

City treasurer did not commit an offense under this section by making deposits in excess of collateral securities given by a bank in lieu of a depository bond under §1973-1. 172M324, 215NW174.

**10305. Officer interested in contract.**—Every public officer who shall be authorized to sell or lease any property, to make any contract in his official capacity, or to take part in making any such sale, lease, or contract, and every employee of such officer, who shall voluntarily become interested individually in such sale, lease, or contract, directly or indirectly, shall be guilty of a gross misdemeanor: provided, however, that any village or city council, town board, or school board, of any town, village or city of the fourth class, otherwise having authority to designate depository for village, city, town or school district funds, of any town, village, or city of the fourth class, may designate a bank in which a member of such board is interested as a depository for village, city, town or school funds of any town, village or city of the fourth class by a two-thirds vote of such board. (R. L. '05, §5032; G. S. '13, §8817; Apr. 20, 1931, c. 212.)

172M392, 215NW673.

*Op. Atty. Gen.* (90d), July 23, 1934; note under §1096.

*Op. Atty. Gen.* (90b), July 24, 1934; note under §990.

When the funds are deposited in a bank of which the treasurer, being a member of the school board, is also an officer and stockholder, the exception to the general rule is inoperative. 173M428, 217NW496.

There being no over deposits when the depository banks failed, prior overdeposits or irregularities could

not be proximate or any cause for any loss that may arise from the insolvency of the bank. *County of Marshall v. Bakke*, 182M10, 234NW1. See *Dun. Dig.* 2263b, 2323(77), 2699.

A city treasurer is guilty of malfeasance by depositing city funds in an undesignated bank of which he is stockholder, director, and assistant cashier, and a surety on his bond is liable for money lost through failure of the bank, notwithstanding stipulation in bond relieving surety from liability for loss caused by failure of any bank or other depository, and there is liability under a bond for funds wrongfully deposited during its term, though bank does not fail until afterwards. *City of Marshall v. G.*, 193M188, 259NW377. See *Dun. Dig.* 8000, 8004, 8022.

Where a municipal officer sells to his municipality property within its corporate powers to acquire and use, and same is so acquired and used by it, liability may be enforced quasi ex contractu, but not beyond value of such property to municipality. *Mares v. J.*, 196M87, 264NW222. See *Dun. Dig.* 8004.

Does not prohibit town treasurer from contracting with town. *Op. Atty. Gen.*, Apr. 27, 1929.

Where school district contracts with municipality for library service, member of school board cannot be employed as librarian by the district and municipality jointly, but may be employed by the municipality independent of the contract for library service. *Op. Atty. Gen.*, Sept. 9, 1929.

Does not prohibit school treasurer from depositing funds in bank of which he is stockholder where there has been no designation of a depository. *Op. Atty. Gen.*, Oct. 8, 1929.

Provision in a home rule charter recognizing validity of municipal contract in which officer is interested, if such officer is the lowest bidder, is invalid, in view of this section and Const. art. 4, §36. *Op. Atty. Gen.*, Feb. 10, 1930.

Requiring applicant for dance hall permit to pay expense of patrolling in vicinity of hall to prevent sale of liquor, held not violative of requirement that officers shall not be interested in contracts. *Op. Atty. Gen.*, June 4, 1930.

State may enter into contracts with members of the legislature for architectural service, consulting engineering service, and construction work. *Op. Atty. Gen.*, May 12, 1931, and May 8, 1931.