

MASON'S MINNESOTA STATUTES

1927

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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THOSE WHICH HAVE BEEN REPEALED OR SUPERSEDED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.

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drug or substance with intent that the same shall be taken by any animal, whether such animal be the property of himself or another, is punishable by imprisonment in the state prison not exceeding two years or in a county jail not exceeding six months or by a fine not exceeding five hundred dollars, or by both such fine and imprisonment. (Pen. Code § 496, amended '89 c. 209 § 51; '05 c. 53 § 1) [8960]

10449. Cock-fights—Dog-fights, etc.—Every person who shall engage in, be employed at, aid, or abet cock-fighting, dog-fighting, bear-baiting, pitting one animal against another of the same or a different kind, or any other similar cruelty to animals; or who shall receive money for the admission of any person to any place used, or about to be used, for any such purpose, or shall wilfully permit any one to enter or use for any such purpose premises of which he is the owner, agent, or occupant; and every person who shall use, train, or possess a dog or other animal for the purpose of seizing, detaining, or maltreating any domestic animal—shall be punished by imprisonment in the county jail for not less than ten nor more than ninety days, or by fine of not less than five dollars nor more than one hundred dollars. Every person who shall knowingly purchase a ticket of admission to any such place, be present at or witness such spectacle, shall be deemed an aider and abettor. (5158) [8961]

10450. Animal with infectious disease—Every owner or person having charge of any animal, knowing the same to have any infectious or contagious disease, or to have recently been exposed thereto, who shall sell

or barter the same, or knowingly permit such animal to run at large or come into contact with any other animal, or with another person without his knowledge and permission, shall be punished by imprisonment in the county jail for not more than thirty days, or by fine of not less than twenty dollars nor more than one hundred dollars. (5159) [8962]
70-282, 286, 73+163.

10451. Exposure of animals—Duty of officers—Any sheriff, constable, village marshal, police officer or any agent of the Minnesota or other societies for the prevention of cruelty, may remove, shelter, and care for any horse or other animal found exposed to the weather and not properly blanketed, or remaining more than one hour without attention in cold or inclement weather, or not properly fed and watered, or provided with suitable food and drink, and when necessary, may deliver such animal to another person to be so sheltered and cared for, and furnished with suitable food and drink; but in all cases the owner, if known, shall be immediately notified, and such officer, or the person having possession of the animal, shall have a lien thereon for its care and keeping and the reasonable value of the food and drink furnished and the expenses of such notice. If the owner or custodian be unknown, and cannot by reasonable effort be ascertained, or shall not, within five days after notice redeem such animal by paying the expenses incurred as aforesaid, it may be treated as an estray, and be dealt with as such. (R. L. § 5160, amended '07 c. 398 § 1) [8963]

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10452. Drunkenness—Successive offenses—Suspension of sentence—Every person who becomes intoxicated by voluntarily drinking intoxicating liquors shall be guilty of the crime of drunkenness, and punished as follows: For a first offense, by imprisonment in the county jail for not more than forty days, or by a fine of not more than forty dollars; for the second offense, by imprisonment for not more than sixty days or by a fine of not more than sixty dollars; for the third and all subsequent offenses, by imprisonment for not less than sixty days nor more than three months; provided, that the court may in its discretion, after conviction, for the first or second offense suspend sentence during the good behavior of the accused, but if he shall again transgress within a period of six months thereafter, he shall again be brought before the court and shall be punished by a term of imprisonment as provided for in this section. (R. L. § 5161, amended '07 c. 208 § 1) [8964]

62-348, 355, 64+912; 77-417, 80+358.

10453. Opium joints—Every person who shall open and maintain, to be resorted to by other persons, any place where opium or any of its preparations shall be sold or given away to be smoked or used therein, or who at such place shall sell or give away opium or its preparations to be there smoked or otherwise used, and every person who shall visit or resort to any such place for the purpose of smoking or using opium or its preparations, shall be guilty of a gross misdemeanor, and punished by imprisonment in the county jail for not more than six months, or by a fine of not more than five hundred dollars, or by both. (5162) [8965]

256 U. S. 41, 41 S. C. 425.

10454. Sale of narcotics prohibited—Exceptions—On or after the 31st day of December, 1915, it shall be unlawful for any person to possess or sell or otherwise dispose of any opium or preparation or manufacture thereof; any morphine or salt or ester or other derivative thereof; any heroin or salt or ester thereof; any coca leaves except decocanized coca leaves; any preparation or manufacture of coca leaves except decocanized preparations or manufactures; any cocaine or salt or ester or other derivative thereof; any alpha—or beta—eucaine or salt or ester thereof; or any chloral or any salt, or ester thereof; or any synthetic substitute for any of the aforementioned substances. Provided that nothing contained in this section shall apply:

(a) To the possession of any of the aforementioned substances by legally licensed physicians or surgeons in connection with the practice of medicine or surgery, by legally licensed dentists in connection with the practice of dental medicine or surgery, by legally licensed veterinarians in connection with the practice of veterinary medicine or surgery, by legally licensed pharmacists or druggists in connection with the practice of

pharmacy, by hospitals or similar institutions, when intended exclusively for the treatment of patients in said institutions, by manufacturers of any of the aforementioned substances, by wholesale dealers in any of the aforementioned substances, or by colleges, scientific or public institutions when intended exclusively for educational, scientific or public purposes.

(b) To the possession by common carriers of original packages of any of the aforementioned substances consigned to any of the persons enumerated in paragraph (a) of this section.

(c) To the possession by duly authorized officers of the law of any of the aforementioned substances seized in the performance of their official duties.

(d) To the possession by any person of any of the aforementioned substances which have been dispensed by a legally licensed physician, surgeon, dentist, veterinarian, pharmacist or druggist in compliance with this act, and are possessed in the form in which they are dispensed and in a container which is labeled in conformity with this act.

(e) To the possession by consumers, by common carriers or by retail dealers licensed by the board of pharmacy of bona fide medicinal preparations intended for internal use, which do not contain in one fluid ounce, or if a solid or a semi-solid preparation, in one avoirdupois ounce, separately more than two grains of opium or the extractive of two grains thereof, or more than one-fourth grain of morphine or any salt thereof, or more than one-eighth grain of heroin or any salt thereof, or more than one grain of codeine or any salt thereof, or 120 grains of chloral or any salt or ester thereof, or of any bona fide medicinal preparation suitable for external use only which does not contain cocaine or any salt or derivative thereof or any synthetic substitute therefor, or alpha—or beta—eucaine or any salt or derivative thereof or any synthetic substitute therefor, or heroin or any salt or derivative thereof.

(f) To the sale or other disposal of the aforementioned substances by manufacturers, wholesale dealers, legally licensed pharmacists or druggists to manufacturers, wholesale dealers, hospitals or similar institutions, colleges, scientific or public institutions, or legally licensed physicians, dentists, veterinarians, pharmacists or druggists; provided that a record of such sale or disposal, showing the date of the transaction, the names and addresses of the parties thereto, the name and quantity of the substance transferred, be made and kept on file by both parties to the transaction for two years open to inspection by duly authorized officers of the law; provided that the making and preserving of any order and duplicate, or of any record required by any other law of this state or of the United States, which order, duplicate or record shall set forth the facts above required to be stated, shall be deemed a satisfactory compliance with the provisions of this paragraph. Whenever required to do so by the authorities charged with the duty of enforcing this act any person selling or distributing the aforementioned substances shall render to such authorities requesting it a true and correct statement verified by affidavit setting out the quantity of such drugs received by him during a period immediately preceding the request, not exceeding three months, as the authorities may demand, the names of the persons from whom the said drugs were received, the quantity in each instance received from each of such persons, and the date when received.

(g) To the sale or other disposal to a consumer of

any of the aforementioned substances by a legally licensed pharmacist or druggist pursuant to the written prescription of a legally licensed physician, surgeon, or dentist, provided that said prescription is dated as of the day on which it was signed by the prescriber, bears the signature and address of the prescriber and the name of the person for whose use the said substance is intended; and provided that the said prescription be serially numbered and dated and filed in its appropriate place in the prescription file of the compounder and be retained on file for two years open to inspection by any duly authorized officer of the law; and provided further that, with the exception of any prescription for a preparation which, if for internal use, does not contain in one fluid ounce, if a solid or semi-solid preparation, in one avoirdupois ounce separately more than two grains of opium or the extractive of two grains thereof, or more than one-fourth grain of morphine or any salt thereof, or more than one-eighth grain of heroin or any salt thereof, or more than one grain of codeine or any salt thereof, or 120 grains of chloral or any salt or ester thereof, or, if for external use, does not contain cocaine or any salt derivative thereof, or any synthetic substitute therefor, or alpha—or beta—eucaine, or any salt or derivative thereof or any synthetic substitute therefor, or heroin or any salt or derivative thereof; such prescription shall be filled but once and no copy of such prescription shall be given to any person except to a duly authorized officer of the law for use in connection with the enforcement of this act or laws of the United States; and provided further that the medicine dispensed upon such prescription shall be delivered in a container which is labeled with the serial number of the prescription, the date upon which it is filled, the name of the person for whose use the medicine is intended, the name of the prescriber, and the name and address of the dispenser.

(h) To the sale or other disposal of any of the aforementioned substances by a legally licensed pharmacist or druggist to a person authorized in writing by the prescriber to receive such substance on the written prescription of a legally licensed veterinarian; provided that such prescription is dated as of the day on which it was signed by the prescriber, bears the signature and address of the prescriber, the name of the person authorized to receive the medicine, and the kind of animal for whose use the said substance is intended; and provided that such prescription be identified, filed and preserved in the manner provided in the preceding paragraph; and provided further that with the exception of any prescription for a preparation for external use, which does not contain any cocaine, or any salt or derivative thereof or any synthetic substitute therefor, or any alpha—or beta—eucaine or any salt or derivative thereof or any synthetic substitute therefor, or any heroin or any salt or derivative thereof, such prescription shall be filled but once and no copy of such prescription shall be given to any person except to a duly authorized officer of the law for use in connection with the enforcement of this act or the laws of the United States; and provided further that the medicine dispensed upon such prescription shall be delivered in a container which is labeled with the serial number of the prescription, the date upon which it is filled, the name of the person authorized by the prescriber to receive the medicine, the kind of animal for whose use the medicine is intended, the name of the prescriber, and the name and address of the dispenser.

(i) To the administration, sale or other disposal of any of the aforementioned substances by a legally licensed physician or dentist for or to a patient upon whom he is in professional attendance; provided that said physician or dentist shall keep a record of the name and address of the patient, the date of the sale or other disposal, and the amount of the drug transferred; provided that the making and preserving of any record required by any other law of this state or of the United States, which record shall set forth the facts above required to be stated, shall be deemed satisfactory compliance with the provisions of this paragraph; and provided further that any of the aforementioned substances dispensed for the use of a patient by a legally licensed physician or dentist shall be delivered in a container labeled with the name of the patient, the date of the delivery, and the name and address of the dispenser.

(j) To the administration of any of the aforementioned substances to a lower animal and not to a human being by a legally licensed veterinarian, or to the prescribing, sale, or other disposal of the aforementioned substances for administration to a lower animal and not to a human being, by a legally licensed veterinarian; provided that said veterinarian when selling or delivering any of the aforementioned substances shall keep a record of the name and address of the person to whom he delivers any of the aforementioned substances, the kind of animal for whose use the aforementioned substances are delivered, the date of the delivery and the amount of the drug transferred in such instances as he may deliver of any of the aforementioned substances more than two full adult medicinal doses for the kind of animal specified, and provided further that any of the aforementioned substances delivered by a legally licensed veterinarian shall be delivered in a container labeled with the name of the person to whom the delivery is made, the kind of animal for whose use the medicine is intended, the date of the delivery, and the name and address of the dispenser.

(k) To the sale by manufacturers, wholesale dealers, legally licensed pharmacists, druggists, physicians, surgeons, dentists or veterinarians or by retail dealers licensed by the board of pharmacy to sell bona fide medicinal preparations intended for internal use, which do not contain in one fluid ounce, or if a solid or semi-solid preparation, in one avoirdupois ounce, separately more than two grains of opium or the extractive of two grains thereof, or more than one-fourth grain of morphine or any salt thereof, or more than one-eighth grain of heroin or any salt thereof, or more than one grain codeine or any salt thereof, or 120 grains of chloral or salt or ester thereof, or of any bona fide medicinal preparation suitable for external use only, which does not contain cocaine or any salt or derivative thereof or any synthetic substitute therefor, or alpha—or beta—eucaine or any salt or derivative thereof, or any synthetic substitute therefor, or heroin or any salt or derivative thereof. ('15 c. 260 § 1)

143-403,173+801.

10455. Physicians forbidden to prescribe for habitual users—It shall be unlawful for any physician, surgeon or dentist to furnish to, or prescribe for, the use of any habitual user of the same any of the substances enumerated in section 1, chapter 260, Laws 1915, unless such physician, surgeon or dentist can show that it is necessary to furnish or prescribe the same to such user in order to save his life. ('15 c. 260 § 2, amended '19 c. 208 § 1)

10455-1. Physicians, etc., forbidden to prescribe to habitual users of narcotic drugs—Punishment—Druggists not liable for making up forged, etc., prescriptions—Any person who violates the foregoing provisions of this act shall be deemed guilty of a felony and for each violation thereof shall be punished on conviction thereof, by imprisonment in the penitentiary for not less than one year nor more than five years, or by a fine of not less than \$100.00 nor more than \$1,000.00, or both imprisonment and fine in the discretion of the court; provided, however, that a legally licensed pharmacist or druggist shall not be held liable for the innocent compounding and dispensing of any of the articles enumerated in Section 1 of this act, in consequence of a false, fraudulent or forged prescription which he in good faith believed to be a prescription of a licensed physician, licensed dentist or licensed veterinarian issued for a lawful purpose. ('15, c. 260, § 3)

Explanatory note—For section 1, see § 10454, herein. Laws 1915, c. 260, § 6 repeals all inconsistent acts and parts of acts.

10455-2. Same—Revocation of license, etc., for second offense—Whenever any legally licensed physician, surgeon, dentist, veterinarian, pharmacist, druggist, manufacturer, wholesale or retail dealer or institution, shall have been twice convicted in a court of proper jurisdiction of any felony under this act, the officer or board, having power to issue licenses to any such licensed person, may, after giving such licensee reasonable notice and opportunity to be heard, revoke the license of said licensee. ('15, c. 260, § 4)

10455-3. Same—Person defined—The word "person" as used in this act shall be construed to mean and include a partnership, association, company or corporation, as well as a natural person. ('15, c. 260, § 5)

10456. Adulterated cigarettes—Every person who shall manufacture, sell, give away, or use any cigarette containing any substance deleterious to health, other than tobacco, shall be punished by a fine of not more than fifty dollars, or by imprisonment in the county jail for not more than thirty days. (5163) [8966]

10457. Same—Any person within the state who manufactures, sells or gives to any one, or uses any cigarette containing any substance foreign to tobacco, shall be punished by a fine of not more than fifty dollars or imprisonment in a county jail for not more than thirty days. ('07 c. 386 § 1) [8967-8968]

10458. Frauds on innkeepers—Any person who shall obtain food, lodging or other accommodations at any hotel, lodging house, inn, boarding or eating house, without paying therefor, with intent to defraud the owner or manager thereof, or who obtains credit at any hotel, lodging house, inn, boarding or eating house by or through any false pretense, or by or through the aid, assistance or influence of any baggage or effects in his or her possession and control, but not actually belonging to such person, shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than ten dollars (\$10) nor more than one hundred dollars (\$100), or by imprisonment in the county jail for not more than ninety (90) days. ('19 c. 511 § 6)

10459. Proof of fraud—Proof that food, lodging or other accommodations was obtained by false pretense or by false or fictitious show or pretense of baggage or other property, or proof that the person refused or neglected to pay for such food, lodging or other accommodation on demand, or that he gave in payment of such food, lodging or other accommodation negoti-

able paper on which payment was refused, or that he absconded without offering to pay for such food, lodging or other accommodation, or that he surreptitiously removed or attempted to remove his or her baggage, shall be prima facie proof of the fraudulent intent mentioned in section 6 hereof; but this act shall not apply where there has been an agreement in writing for delay in payment for a period to exceed ten days. ('19 c. 511 § 7)

28-424, 10+471; 135-91, 160+204.

10460. Solemnizing unlawful marriages—Every minister or magistrate who shall solemnize a marriage when either party thereto is known to him to be under the age of legal consent, or to be an idiot or insane person, or a marriage to which, within his knowledge, a legal impediment exists, shall be guilty of a gross misdemeanor. (5165) [8970]

10461. Advertisement soliciting divorce business—Every person who shall advertise, print, publish, distribute, or circulate, or cause to be advertised, printed, published, distributed, or circulated, any pamphlet, card, handbill, circular, advertisement, printed paper, book, newspaper, or notice of any kind, offering to procure or obtain, or to aid in procuring or obtaining, any divorce, or the severance, dissolution, or nullity of any marriage, or offering to engage, appear, or act as attorney, counsel, or referee in any suit for divorce, alimony, or the severance, dissolution, or nullity of any marriage, either in this state or elsewhere, shall be guilty of a gross misdemeanor, and punished by imprisonment in the county jail for not more than six months, or by fine of not less than one hundred dollars nor more than five hundred dollars. (5166) [8971]

122-227, 143+780.

10462. Improper use of insignia—Every person who shall wilfully wear the insignia or rosette of the military order of the Loyal Legion of the United States, or the badge or button of the Grand Army of the Republic, the American Legion, the Veterans of Foreign Wars, the Disabled American Veterans of the World War, or of any other veteran organizations, or any similitude thereof; or who shall wilfully wear any badge, emblem, or insignia pertaining to the order of Masons, Odd Fellows, Knights of Pythias, or any other secret order or society, or any similitude thereof; or who shall use any such badge, button, or insignia to obtain aid or assistance, or who shall use the name of any such order or society for gain, unless he shall be entitled to so use the same under the Constitution, by-laws, rules and regulations of such order shall be guilty of a misdemeanor, and shall be punished by imprisonment in the county jail for not more than sixty days, or by a fine of not more than fifty dollars, or by both. (R. L. '05, § 5167; G. S. '13, § 8972; amended '21, c. 235, § 1; '27, c. 397)

10463. Trusts and combinations in restraint of trade prohibited—No person or association of persons shall enter into any pool, trust agreement, combination, or understanding whatsoever with any other person or association, corporate or otherwise, in restraint of trade, within this state, or between the people of this or any other state or country, or which tends in any way or degree to limit, fix, control, maintain or regulate the price of any article of trade, manufacture, or use bought and sold within the state, or which limits or tends to limit the production of any such article, or which prevents or limits competition in the purchase and sale thereof, or which tends or is designed so to do; provided, however, that it shall be lawful for any person, firm, corporation, or association of per-

sons conducting or carrying on a lawful business, to purchase the business and property of a competitor and thereafter consolidate such business and the property used in connection therewith under the sole management of and control of the purchaser if, before such purchase and consolidation, the Attorney General of this State shall, after hearing duly had upon notice to all persons interested, find and determine that such consolidation will not unreasonably limit and restrain the production and sale of an article of trade, commodity or service, and will not be detrimental to the public interest. Every person violating any provision of this section, or assisting in such violation, shall be guilty of a felony, and upon conviction thereof shall be punished by a fine of not less than five hundred dollars nor more than five thousand dollars, or by imprisonment in the state prison for not less than three nor more than five years. (R. L. '05 § 5168, G. S. '13 § 8973, amended '23 c. 251 § 1)

82-173, 84+743; 93-278, 101+168; 123 Fed. 692; 194 U. S. 59, 24 Sup. Ct. 598, 48 L. Ed. 870. Sufficient if direct and necessary effect is to stifle or restrict competition, irrespective of intention of parties (107-506, 121+395). Agreement between corporations for transfer of property to one held pooling or combination. Continuance and maintenance by a corporation of combination a present violation (110-415, 126+126). See also, 115-207, 132+268; 123-17, 142+930; 124-34, 144+117; 124-49, 144+417; 127-252, 149+286; 136-176, 161+1056; 137-81, 162+887; 140-488, 169+529; 149-31, 182+712; 151-220, 186+781.

162-471, 203+420.

It is but a reasonable protection of a legitimate interest for a professional man, about to employ another in such manner as to give him access to the acquaintance and confidence of patients, to require of the employee a covenant not to enter into competition with the employer for a reasonable time after the relationship is terminated. 159-296, 199+10.

The sale of the stock and the execution of the contract were contemporaneous and parts of one transaction, and the price paid for the stock was a sufficient consideration for the contract not to compete with the corporation. 210+397.

The rules governing contracts in partial restraint of trade are applicable to the sale by a stockholder of his shares of stock to a corporation, coupled with an agreement not to compete with the corporation. 210+397.

10464. Unlawful discrimination prohibited—Any person, firm or corporation, foreign or domestic, doing business in the state of Minnesota, and engaged in the production, manufacture or distribution of any commodity in general use, that intentionally, for the purpose of destroying the competition of any regular, established dealer in such commodity, or to prevent the competition of any person, who, in good faith intends and attempts to become such dealer, shall discriminate between different sections, communities, or cities of this state, by selling such commodity at a lower rate in one section, community, or city, or any portion thereof than such person, firm, or corporation, foreign or domestic, charges for such commodity in another section, community, or city, after equalizing the distance from the point of production, manufacture, or distribution and freight rates therefrom, shall be guilty of unfair discrimination; Provided that this act shall not prevent any person, firm or corporation from in good faith meeting local competition within any one section, community, village or city. ('21 c. 413 § 1)

123-17, 142+930; 124-34, 144+417; 136-167, 161+520, 1055; 140-481, 168+766.

10465. Attorney general to investigate and prosecute—If complaint shall be made to the attorney general that any corporation is guilty of unfair discriminations defined by this act, he shall investigate such complaint and for that purpose he may subpoena witnesses, administer oaths, take testimony and, if in his opinion sufficient grounds exist therefor, he may prose-

cute an action in the name of the state in the proper court to annul the act of incorporation or the existence of a corporation, or to vacate its charter or revoke the authority of such corporation to do business in this state, as the case may be, and to permanently enjoin such corporation from doing business in this state. If such corporation is adjudged by any court guilty of unfair discrimination as defined by this act, such court shall vacate the charter or revoke the authority of such corporation to do business in this state, and may permanently enjoin it from transacting business in this state. ('21 c. 413 § 2)

10466. Violations—Penalties—Any person, firm or corporation, violating the provisions of Section 1 of this act, shall, upon conviction thereof, be fined not less than two hundred dollars nor more than three thousand dollars for each offense, or, in default of the payment of such fine, by imprisonment in the county jail for not less than three months nor more than one year. ('21 c. 413 § 3)

10467. Not to repeal other acts—Nothing in this act shall be construed as repealing any other act or part of any act, but the remedies herein provided shall be cumulative to all other remedies provided by law. ('21 c. 413 § 4)

10468. Domestic corporations to forfeit franchises—**Foreign corporations**—Every domestic corporation which shall, directly or indirectly, violate any provision of § 10463, or which shall in any way assist in carrying out any of the purposes of such illegal pool, trust agreement, combination, or understanding, in addition to the penalties imposed upon the members thereof by said section, shall forfeit all its corporate franchises; and every foreign corporation admitted to transact business in this state, guilty of like conduct, shall thereafter be prohibited from continuing its business therein. The attorney general and the several county attorneys shall begin and conduct, in the district court, all actions and proceedings necessary to enforce the provisions of this section, and any citizen may do so. Said court, by injunction or restraining order, may prohibit the transaction of business by such corporation pending the trial of such action. (5169) [8974]

Court has no discretion, after foreign corporation is found guilty, to grant any different judgment. Judgment not in violation of federal constitution or laws (115-207, 132+268). 124-34, 144+417; 149-30, 182+712.

10469. Foreign corporations, how readmitted—Any foreign corporation which has heretofore or may hereafter be prohibited by judgment under section 5169, Revised Laws, 1905 [10468], from continuing its business within this state, and whose business at the beginning of the proceedings resulting in such judgment was and thereafter continued to be in whole or in part manufacturing within this state, shall be entitled to the rights, benefits and privileges of section 2389, Revised Laws, 1905 [7494], by filing with the secretary of the state the affidavit specified in the next section, provided that such corporation shall within the times hereinafter specified apply for the assessment of and pay the fine mentioned in section "3" [10471] hereof. Provided that at the time of filing said affidavit the said corporation shall deposit in court with the clerk thereof the sum of \$10,000.00, which sum or any part thereof shall be applied on any fine imposed upon such corporation under section (3) hereof. ('13 c. 378 § 1) [8975]

10470. Affidavit—Said affidavit above mentioned shall be made by the president, secretary, general manager or other officer or agent of said corporation having knowledge of the facts, and shall state that the

business of said corporation at the beginning of said proceedings was and thereafter continued to be in whole or in part manufacturing within the state, and that the said corporation does not at the date of said affidavit directly or indirectly violate any provision of section 5168, Revised Laws 1905 [10463], and does not at said date in any way assist in carrying out any of the purposes of any pool, trust agreement, combination or undertaking mentioned in said section 5168 [10463]. ('13 c. 378 § 2) [8976]

10471. Application to fix fine—Within thirty days after the filing of said affidavit such corporation shall make application in the case in which such judgment was entered for an order of the court to assess and fix a fine upon said corporation in pursuance of this act. Eight days' notice of such application shall be given to the attorney general, and the court, after hearing, shall assess and fix said fine at such sum not exceeding ten thousand dollars (\$10,000) as to it shall seem just and reasonable under the circumstances shown in the record of said case. If said corporation shall fail to make within said thirty days such application for assessing and fixing said fine, or shall fail to pay said fine within said sixty days after the written notice of the amount thereof from the attorney general, all said rights, benefits and privileges under said section 2889 [7494] shall cease. ('13 c. 378 § 3) [8977]

10472. Applicable only to first judgment—This act shall apply only to the first judgment entered against such corporation under said section 5169 [10468], and shall be inapplicable to any subsequent judgment against it under said section 5169 [10468], and said rights, benefits and privileges of said section 2889 [7494], shall cease whenever the business of such corporation shall cease to be in whole or in part manufacturing within this state. ('13 c. 378 § 4) [8978]

10473. Vacation of rights, etc.—Motion by attorney general—At any time after the filing of said affidavit the attorney general may make, in the case in which such judgment was entered, a motion for an order vacating said rights, benefits and privileges under said section 2889 [7494]. Said motion shall contain a specification of the grounds thereof and shall be served on such corporation in the manner provided for the service of a summons. The court shall hear said motion in a summary manner on said specification and on the corporation's answer thereto and on such evidence as may be submitted at the hearing, and shall make its findings of facts and conclusions of law therein; and if it be found that such corporation has since the filing of said affidavit directly or indirectly violated any provision of said section 5168 [10463], or has in any way assisted in carrying out any of the purposes of any pool, trust agreement, combination or understanding mentioned in said section 5168 [10463], the court (by a supplementary judgment in said case) shall enter judgment vacating all of said rights, benefits and privileges or impose a fine not less than \$5,000 and not exceeding \$10,000. ('13 c. 378 § 5) [8979]

10474. Petroleum—Discrimination between different localities prohibited—Any person, firm, company, association, or corporation, foreign or domestic, doing business in the state of Minnesota and engaged in the production, manufacture, or distribution of petroleum or any of its products that shall intentionally, or otherwise, for the purpose of destroying the business of a competitor or creating a monopoly in any locality, discriminate between different sections, communities or cities of this state, by selling such commodity at a lower rate in one section, community, or city than is

charged for such commodity by said party in another section, community, or city after making due allowance for the difference, if any, in the test or quality and in the actual cost of transportation from the point of production, if a raw product, or from the point of manufacture, if a manufactured product, shall be deemed guilty of unfair discrimination, which is hereby prohibited and declared to be unlawful. ('07 c. 269 § 1) [8980]

1907 c. 269 not unconstitutional (111-85, 126+527).
Quære whether other than primary products of petroleum included (111-85, 126+527).

10475. Penalty—Any person, firm, company, association, or corporation, violating any of the provisions of the preceding section, and any officer, agent or receiver of any firm, company, association, or corporation, or any member of the same, or any individual found guilty of violation thereof, shall be guilty of a gross misdemeanor and shall be fined not more than five thousand dollars, or be imprisoned in the county jail not to exceed one year, or both. ('07 c. 269 § 2) [8981]

10476. Contracts void—Recovery—All contracts or agreements made in violation of any provisions of the two preceding sections shall be void and any money or property paid or transferred for any such commodity under any such agreement shall be paid back within ten days after demand therefor, and on failure to so repay, then the purchasers may recover back in a civil action any such money or property, together with reasonable attorneys' fees not less than twenty-five dollars. ('07 c. 269 § 3) [8982]

10477. Duty of county attorney—It shall be the duty of the county attorneys in their counties and the attorney general, to enforce the provisions of the preceding sections of this act by appropriate actions in courts of competent jurisdictions. ('07 c. 269 § 4) [8983]

10478. Duty of secretary of state—If complaint shall be made to the secretary of state that any corporation authorized to do business in this state is guilty of unfair discrimination, within the terms of this act, it shall be the duty of the secretary of state to refer the matter to the attorney general, who may, if the facts justify it in his judgment, institute proceedings in the courts against such corporation. ('07 c. 269 § 5) [8984]

10479. Revocation of permit—If any corporation, foreign or domestic, authorized to do business in this state, is found guilty of unfair discrimination, within the terms of this act, it shall be the duty of the secretary of state to immediately revoke the permit of such corporation to do business in this state. ('07 c. 269 § 6) [8985]

10480. Continuance in business—Ouster—If after the revocation of its permit, such corporation or any other corporation (not having a permit and found guilty of having violated any of the provisions of this act), shall continue or attempt to do business in this state, it shall be the duty of the attorney general, by a proper suit in the name of the state of Minnesota, to oust such corporation from all business of every kind and character in said State of Minnesota. ('07 c. 269 § 7) [8986]

Procedure for revocation of license not exclusive (111-85, 126+527).

10481. Remedies cumulative—Nothing in this act shall be construed as repealing any other act, or part of an act, but the remedies herein provided shall be cumulative to all other remedies by law. ('07 c. 269 § 8) [8987]

10482. Unfair discrimination in the purchase and sale of milk, cream—Any person, firm, co-partnership or corporation engaged in the business of buying milk, cream or butterfat for manufacture or for sale of such milk, cream or butterfat, who shall discriminate between different sections, localities, communities or cities of this state, by purchasing such commodity at a higher price or rate in one locality than is paid for the same commodity by said person, firm, co-partnership or corporation in another locality, after making due allowance for the difference, if any, in the actual cost of transportation from the locality of purchase to the locality of manufacture or locality of sale of such milk, cream or butterfat, shall be deemed guilty of unfair discrimination and, upon conviction thereof, shall be punished by a fine not exceeding one hundred dollars, or by imprisonment in the county jail for not exceeding 90 days. ('21 c. 305 § 1, amended '23 c. 120 § 1)

See 117-186, 134-496.

Explanatory note—For this act as amended, with the addition of § 4 of Laws 1921, c. 305, see supra, §§ 3907 to 3910. See, also, supra, §§ 6248-1 to 6248-9.

10483. Proof—Proof that any person, firm, copartnership or corporation has paid a higher price for milk or cream in one locality than in another, after due allowance for the cost of transportation has been made, shall be prima facie evidence of the violation of this Act. ('21 c. 305 § 2)

10484. Dairy commissioner to enforce provisions—The State Dairy and Food Commissioner, his assistant, inspectors, agents and employes shall enforce the provisions of this Act and in so doing shall have all the powers conferred upon them and each of them by the provisions of Chapter 21, Revised Laws of 1905. ('21 c. 305 § 3)

Explanatory note—Laws '21, c. 305, § 4 repeals Laws '09, c. 463; Laws '13, c. 230; and Laws '17, c. 337.

Act held unconstitutional in 47 Sup. St. Rep. 506. See note to § 3907, herein.

The provisions of R. L. 1905 c. 21 are included in chapter 21 hereof.

10485. Monopolization of food products declared a criminal conspiracy—Any combination of persons, either as individuals, or as members or officials of any corporation to monopolize the markets for food products in this state or to interfere with or restrict the freedom of such markets, is hereby declared to be a criminal conspiracy. ('17 c. 381 § 1)

10486. Punishment—Any person found guilty of violating this act shall be punished by a fine of not less than fifty dollars nor more than \$100, or imprisonment in the county jail for a period not to exceed ninety days. ('17 c. 381 § 2)

10487. Pool-selling and book-making—Every person who shall keep or occupy any room, building, or any part thereof, any booth, tent, or part thereof, or any place upon any public or private grounds, with apparatus, books, blackboard, or other device, appliance, or scheme of whatever kind or description, for the purpose of making, recording, or registering bets or wagers, buying or selling pools or combinations of any sort, upon the results of any trial or contest of skill, speed, or power of endurance of man, beast, bird, or machine, or upon the result of any game or competition, any nomination or appointment or election to or for any office or place whatsoever, political or otherwise; upon any event or happening, or pretended event or happening, whether occurring, to occur, or advertised to occur, in or out of the state; every person who shall make, record, or register any such bet or wager, or buy or sell any such pools or combinations upon

any such result, event, or happening; every owner, lessee, or occupant of any such building, or part thereof, or place in the state, who shall knowingly permit the same to be used or occupied for any of the aforesaid purposes; every person who shall therein keep, exhibit, or employ, or permit to be kept, exhibited, or employed, any books, blackboards, charts, cards, or any other device, apparatus, or scheme whatever for the purpose of displaying or advertising any such game, competition, race, or political or other contest or event on which bets are to be made, or pools bought or sold, or for the purpose of making, registering, or recording any such bet or wager, or for the buying or selling of any such pool or combination; and every person who shall become the custodian or depository, for hire, reward, commission, or compensation in any manner, of any money, property, pools, or things of value whatsoever, in any manner staked, wagered, bet, or pledged upon any such event or result as aforesaid—shall be guilty of a felony, and punished by imprisonment in the state prison for not less than thirty days nor more than one year, or by a fine of not less than one thousand dollars, or by both. (5170) [8990]

10488. Bucket shop defined—Crime, when complete—**Intention of act**—A bucket shop, within the meaning of this act, is defined to be an office, store or other place wherein the proprietor or keeper thereof, either in his or its own behalf, or as the agent or correspondent of any other person, corporation, association or copartnership within or without the state, conducts the business of making, or offering to make, contracts, agreements, trades or transactions respecting the purchase or sale, or purchase and sale, of any stocks, grain, provisions, or other commodity, or personal property, wherein both parties thereto, or said proprietor or keeper, contemplates or intends that such contracts, agreement, trades or transactions, shall be, or may be, closed, adjusted or settled, according to, or upon the basis of the public market quotations, of prices made on any board of trade or exchange, upon which the commodities or securities referred to in said contracts, agreements, trades or transactions are dealt in, and without a bona fide transaction on such board of trade or exchange; or wherein both parties, or such keeper or proprietor, shall contemplate or intend that such contracts, agreements, trades or transactions shall be, or may be, deemed closed or terminated when the public market quotation of prices made on such board of trade or exchange, for the articles or securities named in said contracts, agreements, trades or transactions, shall reach a certain figure; and also any office, store, or other place, where the keeper or proprietor thereof, either in his or its behalf, or as agent, as aforesaid, therein makes or offers to make, with others, contracts, trades or transactions for the purchase or sale of any such commodity, wherein the parties thereto do not contemplate the actual or bona fide receipt or delivery of such property, but do contemplate a settlement thereof based upon differences in the prices at which said property is, or is claimed to be bought and sold. The said crime shall be complete against any proprietor or keeper thus offering to make any such contracts, trades or transactions, whether such offer is accepted or not. It is the intention of this act to prevent, punish and prohibit, within this state, the business now engaged in and conducted in places commonly known and designated as "bucket shops," by persons, corporations, associations or copartnerships, who or which ostensibly carry on the business or occupation of commission merchants or brokers in grain, provisions,

petroleum or stocks and bonds. ('05 c. 133 § 1) [8991]

Where a check or money is delivered by the loser to winner in payment of a bet, by placing the same on the table, and the winner takes it, the loser cannot recover either the money or the check. 157-491, 196+653.

The word "option" in ordinary parlance has no application to a hedge, but is understood to mean a speculative contract. 167-363, 209+33.

10489. Bucket shop prohibited—Penalties—It shall be unlawful for any corporation, association, copartnership or person to keep or cause to be kept, within this state, any bucket shop; and any corporation or person, whether acting individually or as a member, or as an officer, agent or employe of any corporation, association, or copartnership, who shall keep, or assist in the keeping of any bucket shop within this state, shall, upon conviction thereof, be fined in a sum not less than five hundred dollars and not more than two thousand dollars, and be imprisoned in the county jail until such fine is paid, not exceeding one year; and any person or persons who shall be guilty of a second offense under this statute, in addition to the penalty above prescribed, shall, upon conviction, be imprisoned in the county jail for a period of not less than thirty days, and not more than ninety days, and if a corporation, shall be liable to forfeiture, of its charter; and the continuance of such establishment after the first offense, shall be deemed a second offense. ('05 c. 133 § 2) [8992]

10490. Accessories—Any corporation, association, copartnership or person who shall communicate, receive, exhibit or display, in any manner, any statements of quotations of the prices of any property mentioned in section one [10488] hereof, with a view to any transaction in this act prohibited, shall be deemed an accessory, and upon conviction thereof shall be fined and punished the same as the principal, and as provided in section two [10489] of this act. ('05 c. 133 § 3) [8993]

10491. Duty of commission merchants and brokers—Statement—Evidence—It shall be the duty of every commission merchant, copartnership, association, corporation or broker, doing business as such, to furnish to every customer or principal for whom such commission merchant, broker, copartnership, corporation or association has executed any order, for the actual purchase or sale of any of the commodities hereinbefore mentioned, either for immediate or future delivery, a written statement containing the names of the parties from whom such property was bought, or to whom it shall have been sold, as the case may be, the time when, the place where, and the price at which the same was either bought or sold; and in case such commission merchant, broker, copartnership, corporation or association fails to properly furnish such statement, the fact of such failure shall be prima facie evidence that such property was not sold or bought in a legitimate manner. ('05 c. 133 § 4) [8994]

Failure to comply, makes a prima facie case of an illegal transaction. 162-543, 202+739.

Failure of a grain commission merchant to furnish the statutory confirmation required by section, makes a prima facie case of an illegal transaction. Banner Grain Co. v. Burr Farmers' Elevator & Supply Co., 162 Minn. 334, 292 N. W. 740, followed. 167-369, 209+33.

10492. Gift enterprises prohibited—All gift enterprises, as hereinafter defined, and all trade practices carried on in connection therewith are hereby prohibited and declared to be unlawful. ('09 c. 142 § 1) [8995]

See 110-378, 126+120.

10493. Gift enterprises defined—Whenever two or more persons enter into any contract, arrangement or

scheme, whereby for the purpose of inducing the public to purchase merchandise or other property of one of the parties to said scheme, any other party thereto, for a valuable consideration and as a part of such scheme, advertises and induces or attempts to induce the public to believe that he will give gifts, premiums or prizes to persons purchasing such merchandise or other property of such other party to said scheme, and that stamps or tickets will be given by the seller in connection with such sales entitling the purchaser of such property to receive such prizes or gifts from any other party to such scheme, the parties so undertaking and carrying out such scheme shall be deemed to be engaged in a "gift enterprise," unless the articles or things so promised to be given as gifts or premiums with or on account of such purchases, shall be definitely described on such stamp or ticket and the character and value of such promised prize or gift fully made known to the purchaser of such merchandise or other property at the time of the sale thereof, and unless the right of the holder of such stamp or ticket to the gift or premium so promised, becomes absolute upon the completion upon the delivery thereof without the holder being required to collect any specified number of other similar stamps or tickets and to present them for redemption together, and the right of the holder of such stamp or ticket to the prize or gift so offered is absolute, and does not depend on any chance uncertainty or contingency whatever. ('09 c. 142 § 2) [8996]

10494. Engaging in gift enterprise, etc.—Penalty—Any person who engages in a gift enterprise such as is defined in this act or who advertises the same in any manner, or who in furtherance of such scheme, as an inducement to purchasers issues in connection with the sale of any merchandise or other property any such ticket or stamp purporting to be redeemable in some indefinite article not described thereon, only when presented with a collection of other stamps or tickets of like kind, by some other party to such scheme, and which, unless presented in the manner aforesaid is not redeemable at all, shall each and all be guilty of a misdemeanor. ('09 c. 142 § 3) [8997]

10495. "Person" defined—The word "person" as used in this act, may in proper cases in order to make the intent and meaning of the law effective, be construed to mean firm or corporation. ('09 c. 142 § 4) [8998]

10496. Gift enterprises prohibited—All gift enterprises as hereinafter defined and all trade practices carried on in connection therewith are hereby prohibited and declared to be unlawful. ('13 c. 374 § 1) [8999]

10497. Gift enterprise defined—Whenever any person for the purpose of inducing the public to subscribe for or buy any newspaper, magazine or periodical, for a valuable consideration, offers and advertises to give a premium, gift or prize, or offers and advertises any contest whatever, whereby a premium, gift or prize is to be given to any person or persons procuring such sale or subscription, the person so undertaking and carrying on such scheme or contest and offering such gift, premium or prize shall be deemed to be engaged in a "gift enterprise," unless such premium, gift or prize is absolute and does not depend upon any chance or contingency whatever. ('13 c. 374 § 2) [9000]

10498. Penalty—Any person who engages in a gift enterprise such as is defined in this act or who offers or advertises the same in any manner, shall be guilty of a misdemeanor. ('13 c. 374 § 3) [9001]

10499. "Person" defined—The word "person" as

used in this act, may in order to make the intent and meaning of this law effective, be construed to mean firm or corporation. ('13 c. 374 § 4) [9002]

10500. Peace officers to be voters—Penalty—Every state or municipal officer who shall appoint, swear in, or allow any person to act as policeman, special policeman, constable, special constable, patrolman, militiaman, or otherwise as a peace officer, for the purpose of bearing arms or maintaining the peace, or as a detective, spy, or secret agent, with authority to bear arms and make arrests, and every person acting in any such capacity before he shall have become a legal voter of the state, shall be guilty of a gross misdemeanor; provided, however, that nothing in this section shall be held to prohibit the appointment of females who are qualified voters under section eight of article seven of the constitution of Minnesota, to be police women, special police women, or detectives, in any incorporate city when the same shall be authorized by the governing body thereof. (R. L. § 5171, amended '13 c. 236 § 1) [9003]

10501. Private detectives—Every person who shall institute or keep any private detective office for the purpose of keeping or letting out any armed force for hire, and every person, company, or corporation who shall keep or let out any armed force for hire, shall be guilty of a gross misdemeanor, and punished by imprisonment in the county jail for not less than three nor more than twelve months, or by fine of not less than fifty dollars nor more than five hundred dollars. (5172) [9004]

10502. Rights of citizenship—Every person who, on his own account, or as a member of a copartnership, or as an officer or member of a corporation, foreign or domestic, shall require or demand of any employee, under any conditions whatsoever, the surrender, in writing or by parol, of any natural right or any right or privilege of citizenship, shall be guilty of a gross misdemeanor. Violations of this section may be prosecuted by the county attorney of any county, or the prosecuting officer of any municipality. (5173) [9005]

10503. Indians located on reservations—Crimes, etc.—Every Indian located upon any reservation in this state while outside such reservation shall be subject to all and the same provisions of law, civil and criminal, as citizens or residents; and when outside his reservation without a passport from the superintendent or agent of Indian affairs, or from an officer commanding the nearest military fort, or when found in any place not specified in such passport, or after its expiration, any peace officer may remove him from any lands belonging to white inhabitants and return him to his reservation. (5174) [9006]

10504. Wilfully poisoning food, etc.—Every person who shall wilfully mingle poison with any food, drink, or medicine, intended or prepared for the use of a human being, and every person who shall wilfully poison any spring, well, or reservoir of water, shall be punished by imprisonment in the state prison for not more than ten years, or by a fine of not more than five hundred dollars, or by both. (5175) [9007]

10505. Setting spring guns, etc.—Whoever shall set a so-called trap or spring gun, pistol, rifle, or other deadly weapon, shall be punished as follows:

1. If no injury results therefrom to any human being, by imprisonment in the county jail for not less than six months, or by a fine of not more than five hundred dollars, or by both;

2. If injuries not fatal result therefrom to any

human being, by imprisonment in the state prison for not more than five years; and

3. If the death of any human being results therefrom, by imprisonment in the state prison for not less than ten or more than fifteen years. (5176) [9008]

10506. Obstructing engines, etc., on railways—Every person who shall wilfully obstruct any engine or carriage passing upon any railway, so as to endanger the safety of persons in or upon the same, or shall assist or aid therein, shall be punished by imprisonment in the state prison for not more than twenty years; and every person who shall wilfully do, or cause to be done, any act with intent to endanger the safety of persons in or upon any such engine or carriage, or shall aid or assist therein, shall be punished by imprisonment in the state prison for not more than five years, or by fine of not less than one hundred dollars nor more than five hundred dollars. (5177) [9009]

10507. Boarding moving engines or cars—It shall be unlawful for any person other than a passenger or employee to get on or off, or attempt to get on or off, or to swing on, or hang on from the outside of, any engine or car or any electric motor or street car upon any railway or track, while such engine, car, motor, or street car is in motion, or switching or being switched. Every person who shall violate any of the foregoing provisions shall be punished by a fine of not more than ten dollars, and any sheriff, constable, or police officer finding any person in the act of violating any such provision shall arrest, take before a proper court or magistrate, and make a verified complaint against him for such violation. (5178) [9010]

124-517, 145+746.

212+187.

Wrokmen's compensation. ?13+547.

10508. Doors of public building to swing outward—The doors of all theaters, opera houses, public halls, or places used for public entertainments, exhibitions or meetings, which are used exclusively or in part for admission to, or egress from, the same, shall be so hung and arranged as to open outwardly, and, during any exhibition, entertainment, or meeting held therein, shall be kept unlocked and unfastened, and in such condition that, in case of danger or necessity, immediate escape from such building shall not be prevented or delayed. Every owner, agent, or lessee of any such building who shall rent the same or allow it to be used for any of the aforesaid public purposes, without having the doors thereof hung and arranged as hereinbefore provided, shall for each violation of any provision of this section be guilty of a misdemeanor, and be punished by a fine of not less than twenty-five dollars nor more than one hundred dollars, and, in default of payment of fine and costs, shall be confined in the county jail for not less than fifteen nor more than sixty days. (5179) [9011]

10509. Unlawful use of Red Cross—Every person, who, for exhibition or display, shall cause to be placed upon or affixed to any flag, standard, color, or ensign of the United States or this state, or upon one purporting to be either of said flags, standards, colors, or ensigns, any inscription, design, device, symbol, name, advertisement, words, characters, marks, or notice whatsoever; or who shall display or exhibit any such flag, standard, color, or ensign, having upon or affixed to it any such inscription, design, device, symbol, name, advertisement, words, characters, marks, or notice whatever; or who shall publicly mutilate, trample upon, deface, or defy any such flag, standard, color, or ensign—shall be guilty of a misdemeanor; but such flags,

standards, colors, or ensigns used in the service of the United States or of this state may have inscriptions, names of actions, words, marks, or symbols placed thereon pursuant to law or authorized regulations; provided that the placing of the names of donors to the Red Cross fund upon the flag by any regularly organized Red Cross society shall not be construed as a violation of this section. (R. L. '05 § 5180, G. S. '13 § 9012, amended '19 c. 431 § 1)

10510. Red or black flags—It shall be unlawful for any person to display within the state of Minnesota any red flag, or black flag, provided, however, that the provisions of this act shall not prohibit the use of a red flag by any employee of a railroad company as a signal, or the display of a red flag on a public highway as a warning of obstruction. ('19 c. 46 § 1)

10511. Unlawful to have same in possession—It shall be unlawful for any person to have in his possession, custody or control any red flag or black flag, or any picture, or facsimile thereof, whether printed, painted, stamped, carved or engraved on any card, paper or insignia, with intent to display the same in the state of Minnesota. The possession, or having of the same in possession or custody, of any such flag, or picture or facsimile thereof, as above prohibited by any person, shall be deemed evidence of an intent on the part of the person so having the same in possession, custody or control to display the same within the state of Minnesota. ('19 c. 46 § 2)

10512. Flag antagonistic to United States—It shall be unlawful for any person to display any flag or banner, ensign or sign having upon it any inscription antagonistic to the existing government of the United States, or the state of Minnesota. ('19 c. 46 § 3)

10513. Violation a felony—Any person violating the provisions of this act shall be guilty of a felony. ('19 c. 46 § 4)

10514. Desecration of Memorial Day—That the desecration of "Memorial Day," the thirtieth (30th) day of May of each year, by the playing of games of ball, cricket, football, and other like games, or by horse racing, bicycle racing, automobile racing, or any other sports calculated to attract attention to such games or sports and away from the memorial character of said day, within one-half mile of the place where memorial exercises are in progress, is hereby prohibited and made unlawful during the hours from 10 o'clock in the forenoon to 3 o'clock in the afternoon of said day, and all saloons and other places where intoxicating liquors are sold, shall be closed on said day between the hours of 10 o'clock in the forenoon and 3 o'clock in the afternoon, in all cities, villages and towns where memorial exercises are held. ('07 c. 25 § 1) [9013]

10515. Penalty—Any person guilty of a violation of section 1 [10514] of this act shall be deemed guilty of a misdemeanor, and punishable accordingly. ('07 c. 25 § 2) [9014]

10516. National Anthem—The playing, singing or rendering of the hymn commonly known and designated as The Star Spangled Banner, in any public place or at any public entertainment, or in any theatre or motion picture hall, restaurant or cafe in the State of Minnesota, except as an entire and separate composition or number, without embellishments of national or other melodies, and the singing or playing of said hymn or any part thereof as a part or selection of a medley of any kind, and the playing of said hymn at or in any of the places mentioned, for dancing or as an exit march, is hereby prohibited. ('17 c. 247 § 1)

10517. Owner, etc., not to permit rendition—No owner, proprietor or manager of any theatre, moving picture hall, restaurant, cafe or other place within the State of Minnesota, where the public gathers, shall submit or allow anyone playing, singing or performing therein, to play, sing or render the said hymn in violation of the provisions of this act. ('17 c. 247 § 2)

10518. Violation a misdemeanor—Any person who shall violate any of the provisions of this act shall be guilty of a misdemeanor. ('17 c. 247 § 3)

10519. Attorneys not to defend certain prosecutions—Every attorney who shall directly or indirectly advise in relation to, or aid or promote the defence of, any action or proceeding in any court, the prosecution of which shall be carried on, aided, or promoted by any person as county attorney or other public prosecutor with whom such attorney shall be directly or indirectly connected as partner, or who, having himself prosecuted or in any manner aided or promoted any action or proceeding in any court as county attorney or other public prosecutor, shall afterwards, directly or indirectly, advise in relation to, or take any part in, the defence thereof, as attorney or otherwise, or who shall take or receive any valuable consideration from or on behalf of any defendant in any such action, upon any understanding or agreement whatsoever, express or implied, having relation to the defence thereof, shall be guilty of a misdemeanor. (5181) [9015]

10520. Fraudulently presenting claims to public officers—Every person who, with intent to defraud, shall knowingly present, for audit, allowance, or payment, to any officer or board of the state, or of any county, city, town, village, or school district, authorized to audit or allow or to pay bills, claims, or charges, any false or fraudulent claim, bill, account, writing, or voucher, or any bill, account, or demand containing false or fraudulent charges, items, or claims, shall be guilty of a felony. (5182) [9016]

93-311, 101+306.

10521. Fraud by bailee of animals, etc.—Every person who shall obtain from any livery stable the possession or use of a horse or other draft animal or any vehicle without paying therefor, with intent to defraud the keeper, manager, or proprietor thereof, or who shall obtain from such stable the possession or use of any such property by color or aid of any false or fraudulent representation, pretense, token, or writing, or shall obtain credit for such use by color or aid of any false or fraudulent representation, pretense, token, or writing; or who, having hired any such property, shall recklessly, wilfully, wantonly, or by gross negligence injure or destroy, or cause, suffer, allow, or permit the same, or any part thereof, to be injured or destroyed; or who, having hired any horse or other draft animal upon the understanding or agreement that the same shall be ridden or driven a specified distance or to a specified place, shall wilfully and fraudulently ride, drive, or cause, permit, or allow the same to be ridden or driven a longer distance, or to a different place, and shall wilfully and fraudulently represent that the same has not been ridden or driven a longer distance or to a different place than that specified—shall be guilty of a misdemeanor. But this section shall not apply to any case of taking or obtaining the use or possession of the property of another with intent to steal the same, nor where the facts would constitute the crime of larceny. (5183) [9017]

10522. Picking cranberries out of season—Every person who shall pick or gather cranberries, on lands other than his own, before September 1 in any year,

shall be punished by a fine of ten dollars for each such offense. (5184) [9018]

10522-1. Wild flowers protected—No person within the State of Minnesota knowingly shall buy, sell, offer or expose for sale, the state flower (*Cypripedium reginae*) or any species of lady slipper (*Cypripedae*) or any member of the orchid family trillium of any species, lotus (*Nelumbo lutea*), gentian (*Geniana*), arbutus (*Epigaea repens*), or any species of lilies (*Lilium*), or any thereof, dug, pulled or gathered from any public land, or from the land of any private owner without the written consent of such owner or other occupant of such land. ('25, c. 409, § 1)

10522-2. Same—Punishment—Any person who shall violate any of the provisions of this act shall be guilty of a misdemeanor. ('25, c. 409, § 2)

10523. Protection to motormen—It shall be unlawful to operate any street car by electricity, steam, or cable, upon or over any street railway, unless the same is so constructed as to protect the motorman or gripman from the inclemency of the weather. Every person or corporation owning or operating any street railway who shall violate the provisions of this section shall be guilty of a gross misdemeanor, and punished by a fine of not less than fifty dollars for each day of such violation. (5185) [9019]

Constitutional (53-35, 59+545) 135-89, 160+204.

10524. Stealing railway tickets, etc.—If any person in the employ of a railroad or steamboat company shall fraudulently neglect to cancel, or to return to the proper officer or agent of such company, any ticket, coupon, or pass, with the intent to permit the same to be used in fraud of any railroad or steamboat company, or if any person shall steal or fraudulently stamp, print, sign, sell, or put in circulation any such ticket, coupon, or pass, he shall be guilty of a felony, and punished by imprisonment in the state prison for not more than five years. (5186) [9020]

135-89, 160+204.

10525. Employee obtaining transportation with intent to defraud—Every employee who, with intent to defraud, having received transportation from his employer from any point in this state to or in the direction of a place where he has agreed with such employer to perform labor or render services, or who, with intent to defraud, having received the benefit of other pecuniary advancement from the employer under his agreement to perform labor or render services in repayment of the cost of such transportation or amount of such advancement, refuses or neglects to perform such labor or render such services to the full value of the transportation furnished or advancement made, or to repay to such employer such transportation or advancement in money, shall be guilty of a misdemeanor, and punished by a fine of not more than twenty-five dollars or by imprisonment for not more than sixty nor less than ten days. The failure or refusal of any such employee to perform such labor or render such services in accordance with his contract, or pay in money the amount paid for such transportation or such advancement, shall be prima facie evidence of his intent to defraud, and the value of such labor or services shall be determined by the price so agreed to be paid such employee therefor. (5187) [9021]

135-89, 160+204.

10526. Misconduct by hotel runners—Any licensed hotel, railroad, steamboat, or restaurant runner who shall annoy or obstruct any person on the public streets shall be guilty of a misdemeanor, the minimum

punishment whereof shall be a fine of five dollars; and upon conviction hereunder the license of such runner shall be forfeited. (5188) [9022]

10527. Fumigating grain to change color—Penalty—Any person who shall sell or offer for sale, or for shipment and sale, any barley or other grain, which shall have been subjected to fumigation, or other treatment by sulphur or other material, or to any other chemical process, affecting the color thereof, shall be guilty of a felony, and punished by a fine of not more than five hundred dollars, or by imprisonment in the state prison for not more than one year, or by both such fine and imprisonment; and shall also be liable to any person injured in treble damages; provided, that barley and oats may be purified by fumigation, or treatment with sulphur, under such restrictions, rules and regulations as the railroad and warehouse commission shall prescribe for such purpose, and when so purified may be sold and marketed as "Purified Barley" or as "Purified Oats," and not otherwise. (R. L. § 5189, amended '07 c. 213 § 1) [9023]

10528. Maximum toll of custom mill—It shall be unlawful for any person owning or operating a custom mill to take a larger proportion than one-eighth as toll for grinding and bolting any wheat or other grain brought as a grist to such mill. Any person violating any provision of this section shall be guilty of a misdemeanor, and be punished by a fine of not less than ten dollars nor more than one hundred dollars. (5190) [9024]

10529. Stealing from cars—Every person other than the owner or his agent, or one having charge of a railroad car for the purpose of loading the same, who takes from such car, while in transit, in the yards, or on any siding or track of any railroad in this state any grain or flax seed, or sweeps any such car, shall be guilty of a misdemeanor. On the trial it shall not be necessary to show that the defendant is not in the employ of the railroad company or acting under its authority while doing the act complained of, but the fact of the sweeping shall be prima facie evidence of the violation of this section. (5191) [9025]

135-89, 160+204.

10530. Railway cars obstructing roads and streets—No person shall obstruct any public road or street by leaving, placing, keeping, or causing to be left, placed or kept any railway car upon or across the same, or to stop or cause to be stopped any engine or train of cars across any public road or street except for a sufficient time, not exceeding ten minutes, to couple or separate the cars. Whoever violates any provision of this section shall be guilty of a misdemeanor and punished by a fine of not less than five dollars, nor more than fifty dollars, and costs of prosecution, or by imprisonment in the county jail for not more than thirty days. (5192) [9026]

10531. Fast driving on bridge—Whoever rides or drives faster than a walk, upon any bridge, at each end of which a conspicuous sign board is placed upon which is printed the following words and figures: "\$10 fine for riding or driving on this bridge faster than a walk," shall be guilty of a misdemeanor, and punished by a fine of ten dollars, or imprisonment in the county jail for ten days, for each offense. (5193) [9027]

10532. Running toll—Whenever any person is authorized by law to collect toll for the crossing of any bridge or ferry belonging to him and every person who wilfully runs the toll gate or passes over such bridge or ferry with the intention of avoiding the pay-

ment of the prescribed toll, or who refuses to pay such toll when thereto lawfully requested, shall be guilty of a misdemeanor and punished by a fine of five dollars. All fines received under the provisions of this section and §§ 10530, 10531, shall be paid into the treasury of the town where the offense was committed, to be used in repairing the public roads in such town. (5194) [9028]

10533. Armed association—It shall not be lawful for any body of men other than the national guard, troops of the United States and, with the consent of the governor, Sons of Veterans and cadets of educational institutions where military science is taught, to associate themselves together as a military company with arms, but members of social and benevolent organizations are not prohibited from wearing swords. Any violation of this act shall be a misdemeanor. (5195) [9029]

10534. Application of term "vagrancy" and extension of the same so as to include various persons—The following persons are vagrants:

1. A person who, being an habitual drunkard, abandons, neglects or refuses to aid in the support of his family.

2. A person who has contracted an infectious or other disease in the practice of drunkenness or debauchery, requiring charitable aid to restore him to health.

3. Every male person who lives wholly or in part on the earnings of prostitution, or who in any public place solicits for immoral purposes. A male person who lives with or is habitually in the company of a prostitute and has no visible means of support, shall be deemed to be living on the earnings of prostitution.

4. A common prostitute who shall be found wandering about the streets, or loitering in or about any restaurant, lodging house, saloon, or place where intoxicating liquors are sold.

5. Every female who shall be found wandering about the streets and addressing male persons for the purpose of soliciting the commission of any lewd, indecent or unlawful act, or for the purpose of enticing any male person into a house of prostitution or assignation, bedhouse, room, or other place for any unlawful purpose.

6. Fortune tellers, and such other like imposters.

7. A person known to be a pickpocket, thief, burglar, "yeggman" or "confidence man," and having no visible or lawful means of support, when found loitering around any steamboat landing, railroad depot, railroad yard, banking institution, broker's office, place of

public amusement, hotel, auction room, store, shop or crowded thoroughfare, car or omnibus, or at any public gathering or assembly. Provided, however, that this act shall not apply to any such person unless he has been convicted of the offense which would make him known as such person, and shall not apply to any person who has been in prison for such offense, who, after being released from such imprisonment has been engaged in lawful employment, and shall not in any case apply to any such person until more than thirty days have elapsed since being released from such imprisonment.

8. A person engaged in practicing or attempting any trick or device to procure money or other thing of value, if such trick or device is made a public offense by any law of this state, or any person engaged in soliciting, procuring or attempting to solicit or procure money or other thing of value by falsely pretending and representing himself to be blind, deaf, dumb, without arms or legs, or to be otherwise physically deficient or to be suffering from any physical defect or infirmity.

9. A person wandering about and lodging in taverns, groceries, alehouses, outhouses, market places, sheds, stables, barns or other uninhabited buildings or in the open air and not giving a good account of himself.

10. Any person not blind, over sixteen years of age and who has not resided in the county in which he may be at any time for a period of six months prior thereto, and not having visible means to maintain himself, lives without employment or wanders about and begs, or goes from door to door or places himself in the streets, highways or public passages to beg or receive alms.

Every such person shall upon conviction thereof be punished by imprisonment not exceeding ninety (90) days or by a fine not exceeding one hundred dollars (\$100.00). ('09 c. 487, amended '11 c. 257 § 1; '17 c. 292 § 1) [9030]

10535. Selling tickets to theatres, etc., at greater price—No person, firm, or corporation shall sell or offer or expose for sale any tickets of admission to any theatre, opera, concert, athletic contest, or other public entertainment at a greater price than the same are being sold for or offered for sale by the management of the same. ('13 c. 521 § 1) [9031]

10536. Penalty for violation—Violation of this act shall be punishable by a fine of not less than ten (10) dollars or more than one hundred (100) dollars, or imprisonment in the county jail for not less than ten (10) days or more than ninety (90) days. ('13 c. 521 § 2) [9032]

CHAPTER 104

CRIMINAL PROCEDURE

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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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Distinction between guests, lodgers, and tenants as affecting offense of coercion. 22MinnLawRev1055.

10432. Injury to other property.

Cause of action, for damages arising out of breach of statute intended for benefit of plaintiff, against local brokerage association and one copartnership, held properly joined with action against second copartnership on its undertaking to account to plaintiff for stocks and moneys delivered by plaintiff to association in part payment of bucketed orders and delivered to second copartnership, on transfer of association's account from first copartnership, and received by second copartnership with full knowledge of the bucketing activities of association. Kaiser v. E., 200M545, 274NW680. See Dun. Dig. 3941.

Person hiring young man to put emery dust and waste in oil tank of automobile, resulting in damage, may be prosecuted under this section. Op. Atty. Gen., Mar. 4, 1933.

Throwing thistle seeds on neighbor's farm constitutes violation of this section. Op. Atty. Gen. (605a-18), Aug. 26, 1935.

Where aeroplane was taken without owner's consent and was wrecked when forced landing was made, no prosecution could be had for willful destruction of plane. Op. Atty. Gen. (494b-20), Aug. 23, 1937.

Injury to a fish screen erected on a dam with consent of county board by sportsmen organizations would constitute a violation of this statute. Op. Atty. Gen. (494a), June 1, 1938.

10433. Interfering with electrical apparatus.

Section is without application to action for death of house mover attempting to get house under wires. Fari-bault v. N., 183M514, 247NW630.

This statute was directed against a wilful or malicious tampering or interference, and in this respect term "wilful" denotes an evil or malice. Ekdahl v. M., 203M374, 281NW517. See Dun. Dig. 2410.

Boy fifteen years of age removing hasp on cable holding mast upon which was suspended street light, through mere curiosity was not guilty of negligence as a matter of law or of violation of this section. Id. See Dun. Dig. 2996.

A boy who ran to aid of another boy who had disconnected cable supporting street lamp following his cry for help was not guilty of contributory negligence where his object in touching cable was only for purpose of saving defendant's property from injury. Schorr v. M., 203M384, 281NW523. See Dun. Dig. 7025.

10437. Draining meandered lakes, etc.

Owner of private lake cannot construct and maintain a channel to a public lake if it injuriously affects the public lake. Op. Atty. Gen., Sept. 26, 1929.

This section was not repealed by §6602-68. Op. Atty. Gen. (273c-1), July 29, 1938.

Unauthorized drainage of meandered lakes is a violation of §10437 and may be subject of inquiry on order of commissioner under §6602-51, et seq. Id.

10441-1. Willful trespass a misdemeanor.—Every person who has no right of possession and who refuses to depart from and surrender possession of property when ordered to do so by the owner thereof and who thereafter wilfully continues to trespass upon said property shall be guilty of a misdemeanor, provided, however, that this Act shall not apply in any case where immediately prior thereto there existed between the owner and the person in possession the relationship of landlord and tenant, vendor and vendee, or mortgagor and mortgagee or their respective successors or assigns. (Act Apr. 21, 1939, c. 377.)

CHAPTER 102

Cruelty to Animals

10443. Overworking animals, etc.

Evidence held sufficient to support finding that horse's death resulted from starvation. State v. Maguire, 188M 627, 248NW216. See Dun. Dig. 279.

One in possession of horse under claim of lien is guilty if he permits it to starve to death. Id.

10444. Cruelty in transportation.

Prosecution must be for violation of statute and not "regulations" issued thereunder. Op. Atty. Gen. (293b-19), July 8, 1937.

10448. Poisoning animals.

Section is constitutional. State v. Eich, 204M134, 282 NW810.

Information charging that defendant unjustifiably exposed poison with intent that it should be taken by a dog held sufficiently definite to state an offense. Id. See Dun. Dig. 279.

One placing meat containing strychnine in a shed on his property for purpose of killing rats is not chargeable with death of a dog under this section, intent being necessary. Op. Atty. Gen. (494a-2), July 29, 1938.

10450. Animal with infectious disease.

Seller of infected hogs, held not entitled to directed verdict for price. 180M78, 230NW259.

CHAPTER 103

Miscellaneous Crimes

10453 to 10455-3. [Repealed.]

Repealed Mar. 19, 1937, c. 74, §25, post, §10455-28.

UNIFORM NARCOTIC DRUG ACT

This act was adopted by Alaska, Arizona, Colorado, Connecticut, District of Columbia, Florida, Georgia, Hawaii, Illinois, Indiana, Iowa, Kansas, Maryland, Massachusetts, Michigan, Minnesota, Missouri, Montana, Nebraska, Nevada, New Jersey, New Mexico, New York, North Carolina, Ohio, Oklahoma, Oregon, Puerto Rico, Rhode Island, South Carolina, South Dakota, Tennessee, Utah, Virginia, West Virginia, Wisconsin and Wyoming.

10455-4. Definitions.—The following words and phrases, as used in this act shall have the following meanings, unless the context otherwise requires:

(1) "Persons" includes any corporation, association, co-partnership, or one or more individuals.

(2) "Physician" means a person authorized by law to practice medicine in this state and for the purposes of this act only, any other person authorized by law to treat sick and injured human beings in this state and to use narcotic drugs in connection with such treatment.

(3) "Dentist" means a person authorized by law to practice dentistry in this state.

(4) "Veterinarian" means a person authorized by law to practice veterinary medicine in this state.

(5) "Manufacturer" means a person who by compounding, mixing, cultivating, growing, or other process, produces or prepares narcotic drugs, but does not include an apothecary who compounds narcotic drugs to be sold or dispensed on prescriptions.

(6) "Wholesaler" means a person who supplies narcotic drugs that he himself has not produced or prepared, on official written orders, but not on prescriptions.

(7) "Apothecary" means a licensed pharmacist as defined by the laws of this state and, where the context so requires, the owner of a store or other place of business where narcotic drugs are compounded or dispensed by a licensed pharmacist; but nothing in this act shall be construed as conferring on a person who is not registered nor licensed as a pharmacist any authority, right, or privilege, that is not granted to him by the pharmacy laws of this state.

(8) "Hospital" means an institution, where the sick and injured receive care and treatment, approved by the department of health of the State of Minnesota as proper to be entrusted with the custody of narcotic drugs.

(9) "Laboratory" means a laboratory approved by the department of health as proper to be entrusted with the custody of narcotic drugs and the use of narcotic drugs for scientific purposes.

(10) "Sale" includes barter, exchange, or gift, or offer therefor, and each such transaction made by any person, whether as principal, proprietor, agent, servant, or employee.

(11) "Coca leaves" includes cocaine and any compound, manufacture, salt, derivative, mixture, or preparation of coca leaves, except derivatives of coca leaves which do not contain cocaine, ecgonine, or substances from which cocaine or ecgonine may be synthesized or made.

(12) "Opium" includes morphine, codeine, and heroin, and any compound, manufacture, salt, derivative, mixture, or preparation of opium, but does not include apomorphine or any of its salts.

(13) "Narcotic drugs" means coca leaves, opium, and every substance neither chemically nor physically distinguishable from them.

(14) "Federal Narcotic Laws" means the laws of the United States relating to opium, coca leaves, and other narcotic drugs.

(15) "Official written order" means an order written on a form provided for that purpose by the United States Commissioner of Narcotics, under any laws of the United States making provision therefor, if such order forms are authorized and required by federal law, and if no such order form is provided, then on an official form provided for that purpose by the department of health of the State of Minnesota.

(16) "Dispense" includes distribute, leave with, give away, dispose of, or deliver.

(17) "Registry number" means the number assigned to each person registered under the Federal Narcotic Laws. (Mar. 19, 1937, c. 74, §1.)

Sale of barbital regulated. Laws 1939, c. 102. Amended. Laws 1939, c. 193.

10455-5. Certain acts unlawful.—It shall be unlawful for any person to manufacture, possess, have under his control, sell, prescribe, administer, dispense, or compound any narcotic drug, except as authorized in this act. (Mar. 19, 1937, c. 74, §2.)

10455-6. Must obtain license.—No person shall manufacture, compound, mix, cultivate, grow, or by any other process produce or prepare narcotic drugs, and no person as a wholesaler shall supply the same, without having first obtained a license so to do from the said department of health, provided, however, that no such license shall be required of the University of Minnesota, nor any college approved by the University of Minnesota, in the manufacturing, compounding, mixing, cultivating, growing, producing and preparing of narcotic drugs for educational and scientific purposes only. (Mar. 19, 1937, c. 74, §3.)

10455-7. Qualifications for licensee.—No license shall be issued under the foregoing section unless and until the applicant therefor has furnished proof satisfactory to said department of health:

(a) That the applicant is of good moral character or, if the applicant be an association or corporation, that the managing officers are of good moral character.

(b) That the applicant is equipped as to land, buildings, and paraphernalia properly to carry on the business described in his application.

No license shall be granted to any person who has within five years been convicted of any willful violation of any law of the United States, or of any state, relating to opium, coca leaves, or other narcotic drugs, or to any person who is a narcotic drug addict.

The department of health of the State of Minnesota may suspend or revoke any such license for cause. (Mar. 19, 1937, c. 74, §4.)

10455-8. Who may purchase drugs.

(1) A duly licensed manufacturer or wholesaler may sell and dispense narcotic drugs to any of the following persons, but only on official written orders:

(a) To a manufacturer, wholesaler, or apothecary.

(b) To a physician, dentist, or veterinarian.

(c) To a person in charge of a hospital, but only for use in that hospital.

(d) To a person in charge of a laboratory, but only for use in that laboratory for scientific purposes.

(2) A duly licensed manufacturer or wholesaler may sell narcotic drugs to any of the following persons:

(a) On a special written order accompanied by a certificate of exemption, as required by the Federal Narcotic Laws, to a person in the employ of the United States Government or of any state, territorial, district, county, municipal, or insular government, purchasing, receiving, possessing, or dispensing narcotic drugs by reason of his official duties.

(b) To a master of a ship or a person in charge of any aircraft upon which no physician is regularly employed, for the actual medical needs of persons on board such ship or aircraft, when not in port. Provided: Such narcotic drugs shall be sold to the master of such ship or person in charge of such aircraft only in pursuance of a special order form approved by a commissioned medical officer or acting assistant surgeon of the United States Public Health Service.

(c) To a person in a foreign country if the provisions of the Federal Narcotic Laws are complied with.

(3) An official written order for any narcotic drug shall be signed in duplicate by the person giving said order or by his duly authorized agent. The original shall be presented to the person who sells or dispenses the narcotic drug or drugs named therein. In event of the acceptance of such order by said person, each party to the transaction shall preserve his copy of such order for a period of two years in such a way as to be readily accessible for inspection by any public officer or employee engaged in the enforcement of this act. It shall be deemed a compliance with this sub-section if the parties to the transaction have complied with the Federal Narcotic Laws, respecting the requirements governing the use of order forms.

(4) Possession of or control of narcotic drugs obtained as authorized by this section shall be lawful if in the regular course of business, occupation, profession, employment, or duty of the possessor.

(5) A person in charge of a hospital or of a laboratory, or in the employ of this state or of any other state, or of any political subdivision thereof, and a master or other proper officer of a ship or aircraft, who obtains narcotic drugs under the provisions of this section or otherwise, shall not administer, nor dispense, nor otherwise use such drugs, within this state, except within the scope of his employment or official duty, and then only for scientific or medicinal purposes and subject to the provisions of this act. (Mar. 19, 1937, c. 74, §5.)

10455-9. Apothecaries may sell certain drugs upon prescription.

(1) An apothecary, in good faith, may sell and dispense narcotic drugs to any person upon a written prescription of a physician, dentist, or veterinarian, dated and signed by the person prescribing on the day when issued and bearing the full name and address of the patient for whom, or of the owner of the animal for which, the drug is dispensed, and the full name, address, and registry number under the Federal Narcotic Laws of the person prescribing, if he is required by those laws to be so registered. If the prescription be for an animal, it shall state the species of animal for which the drug is prescribed. The per-

son filling the prescription shall write the date of filling and his own signature on the face of the prescription. The prescription shall be retained on file by the proprietor of the pharmacy in which it is filled for a period of two years, so as to be readily accessible for inspection by any public officer or employee engaged in the enforcement of this act. The prescription shall not be refilled.

(2) The legal owner of any stock of narcotic drugs in a pharmacy, upon discontinuance of dealing in said drugs, may sell said stock to a manufacturer, wholesaler, or apothecary, but only on an official written order.

(3) An apothecary, only upon an official written order, may sell to a physician, dentist, or veterinarian, in quantities not exceeding one ounce at any one time, aqueous or oleaginous solutions of which the content of narcotic drugs does not exceed a proportion greater than twenty per cent of the complete solution, to be used for medicinal purposes. (Mar. 19, 1937, c. 74, §6.)

10455-10. Physicians and dentists may prescribe.

(1) A physician or a dentist, in good faith and in the course of his professional practice only, may prescribe, administer, and dispense narcotic drugs, or he may cause the same to be administered by a nurse of interne under his direction and supervision.

(2) A veterinarian, in good faith and in the course of his professional practice only, and not for use by a human being, may prescribe, administer and dispense narcotic drugs, and he may cause them to be administered by an assistant or orderly under his direction and supervision. (Mar. 19, 1937, c. 74, §7.)

10455-11. Application of act.—Except as otherwise in this act specifically provided, this act shall not apply to the following cases:

(1) Prescribing, administering, dispensing, or selling at retail of any medicinal preparation that contains in one fluid ounce, or if a solid or semi-solid preparation, in one avoirdupois ounce, (a) not more than two grains of opium, (b) not more than one-quarter of a grain of morphine or of any of its salts, (c) not more than one grain of codeine or of any of its salts, (d) not more than one-eighth of a grain of heroin or of any of its salts, (e) not more of any combination of the drugs named above than a quantity that does not exceed in pharmacologic potency any one of such drugs named in clauses (a), (b), (c) and (d).

(2) Prescribing, administering, dispensing, or selling at retail of liniments, ointments, and other preparations, that are for external use only and that contain narcotic drugs in such combinations as prevent their being readily extracted from such liniments, ointments, or preparations, except that this act shall apply to all liniments, ointments, and other preparations, that contain coca leaves in any quantity or combination.

The exemptions authorized by this section shall be subject to the following conditions:

(a) No person shall prescribe, administer, dispense, or sell under the exemptions of this section, to any one person, or for the use of any one person or animal, any preparation or preparations included within this section, when he knows, or can by reasonable diligence ascertain, that such prescribing, administering, dispensing, or selling will provide the person to whom or for whose use, or the owner of the animal for the use of which, such preparation is prescribed, administered, dispensed, or sold, within any 48 consecutive hours, with more than four grains of opium, or more than one-half grain of morphine, or of any of its salts, or more than two grains of codeine or any of its salts, or more than one-quarter of a grain of heroin or of any of its salts, or will provide such person or the owner of such animal, within 48 consecutive hours, with more than one preparation

exempted by this section from the operation of this act.

(b) The medicinal preparation, or the liniment, ointment, or other preparation for external use only, prescribed, administered, dispensed, or sold, shall contain in addition to the narcotic drug in it, some drug or drugs conferring upon it medicinal qualities other than those possessed by the narcotic drug alone. Such preparation shall be prescribed, administered, dispensed, and sold in good faith as a medicine, and not for the purpose of evading the provisions of this act.

Nothing in this section shall be construed to limit the kind and quantity of any narcotic drug that may be prescribed, administered, dispensed, or sold, to any person or for the use of any person or animal, when it is prescribed, administered, dispensed, or sold in compliance with the general provisions of this act. (Mar. 19, 1937, c. 74, §8.)

10455-12. Physicians and dentists, etc., to keep records.—(1) Every physician, dentist, veterinarian, or other person who is authorized to administer or professionally use narcotic drugs, shall keep a record of such drugs received by him, and a record of all such drugs administered, dispensed, or professionally used by him otherwise than by prescription. It shall, however, be deemed a sufficient compliance with this subsection if any such person using small quantities of solutions or other preparations of such drugs for local application, shall keep a record of the quantity, character, and potency of such solutions or other preparations purchased or made up by him, and of the dates when purchased or made up, without keeping a record of the amount of such solution or other preparation applied by him to individual patients.

Provided: That no record need be kept of narcotic drugs administered, dispensed, or professionally used in the treatment of any one patient, when the amount administered, dispensed, or professionally used for that purpose does not exceed in any forty-eight consecutive hours, (a) four grains of opium, or (b) one-half of a grain of morphine or of any of its salts, or (c) two grains of codeine or of any of its salts, or (d) one-fourth of a grain of heroin or any of its salts, or (e) a quantity of any other narcotic drug or any combination of narcotic drugs that does not exceed in pharmacologic potency any one of the drugs named above in the quantity stated.

(2) Manufacturers and wholesalers shall keep records of all narcotic drugs compounded, mixed, cultivated, grown, or by any other process produced or prepared, and of all narcotic drugs received and disposed of by them, in accordance with the provisions of subsection 5 of this section.

(3) Apothecaries shall keep records of all narcotic drugs received and disposed of by them, in accordance with the provisions of subsection 5 of this section.

(4) Every person who purchases for resale, or who sells narcotic drug preparations exempted by Section 8 of this act, shall keep a record showing the quantities and kinds thereof received and sold, or disposed of otherwise, in accordance with the provisions of subsection 5 of this section.

(5) The form of records shall be prescribed by the department of health of the State of Minnesota. The record of narcotic drugs received shall in every case show the date of receipt, the name and address of the person from whom received, and the kind and quantity of drugs received; the kind and quantity of narcotic drugs produced or removed from process of manufacture, and the date of such production or removal from process of manufacture; and the record shall in every case show the proportion of morphine, cocaine, or ecgonine contained in or producible from crude opium or coca leaves received or produced. The record of all narcotic drugs sold, administered, dispensed, or otherwise disposed of, shall show the date of selling, administering, or dispensing, the name

and address of the person to whom, or for whose use, or the owner and species of animal for which the drugs were sold, administered or dispensed, and the kind and quantity of drugs. Every such record shall be kept for a period of two years from the date of the transaction recorded. The keeping of a record required by or under the Federal Narcotic Laws, containing substantially the same information as is specified above, shall constitute compliance with this section, except that every such record shall contain a detailed list of narcotic drugs lost, destroyed, or stolen, if any, the kind and quantity of such drugs, and the date of the discovery of such loss, destruction, or theft. (Mar. 19, 1937, c. 74, §9.)

10455-13. Manufacturers to label all packages.

(1) Whenever a manufacturer sells or dispenses a narcotic drug, and whenever a wholesaler sells or dispenses a narcotic drug in a package prepared by him, he shall securely affix to each package in which that drug is contained a label showing in legible English the name and address of the vendor and the quantity, kind, and form of narcotic drug contained therein. No person, except an apothecary for the purpose of filling a prescription under this act, shall alter, deface, or remove any label so affixed.

(2) Whenever an apothecary sells or dispenses any narcotic drug on a prescription issued by a physician, dentist, or veterinarian, he shall affix to the container in which such drug is sold or dispensed, a label showing his own name, address and registry number, or the name, address, and registry number of the apothecary for whom he is lawfully acting; the name and address of the patient, or, if the patient is an animal, the name and address of the owner of the animal and the species of the animal; the name, address, and registry number of the physician, dentist, or veterinarian, by whom the prescription was written; and such directions as may be stated on the prescription. No person shall alter, deface, or remove any label so affixed. (Mar. 19, 1937, c. 74, §10.)

10455-14. Must be kept in original container.—A person to whom or for whose use any narcotic drug has been prescribed, sold, or dispensed, by a physician, dentist, apothecary, or other person authorized under the provisions of Section 5 of this act, and the owner of any animal for which any such drug has been prescribed, sold or dispensed, by a veterinarian, may lawfully possess it only in the container in which it was delivered to him by the person selling or dispensing the same. (Mar. 19, 1937, c. 74, §11.)

10455-15. Enforcement of act.—It shall be the duty of all peace, police officers, sheriffs and county attorneys to enforce the provisions of this act.

On complaint before any court having jurisdiction charging any person with manufacturing, selling or keeping or having in his possession any narcotic drugs in violation of the provisions of this act, and particularly describing the premises or place, the court in addition to issuing a warrant for the arrest of such person shall upon request issue a search warrant commanding any officer to search such premises or place and to seize and hold, subject to the order of the court, all narcotic drugs found therein, any of which is apparently kept, had or possessed, or manufactured or sold in violation of any of the provisions or part of the constitution or law of this state or of the United States relating to narcotic drugs and to make an inventory of the same and to serve a copy thereof forthwith on the defendant or person in charge of the premises, provided, however, that the failure to make, file or serve any such inventory shall not invalidate or in any way affect the legality of any search or seizure or proceeding made or had under the provisions of this act. (Mar. 19, 1937, c. 74, §12.)

10455-16. Not to apply to common carriers or warehousemen.—The provisions of this act restricting the possession and having control of narcotic drugs

shall not apply to common carriers or to warehousemen, while engaged in lawfully transporting or storing such drugs, or to any employee of the same acting within the scope of his employment; or to public officers or their employees in the performance of their official duties requiring possession or control of narcotic drugs; or to temporary incidental possession by employees or agents of persons lawfully entitled to possession, or by persons whose possession is for the purpose of aiding public officers in performing their official duties. (Mar. 19, 1937, c. 74, §13.)

10455-17. Places selling or allowing the use of drugs a common nuisance.—Any store, shop, warehouse, dwelling house, building, vehicle, boat, aircraft, or any place whatever, which is resorted to by narcotic drug addicts for the purpose of using narcotic drugs or which is used for the illegal keeping or selling of the same, shall be deemed a common nuisance. No person shall keep or maintain such a common nuisance. (Mar. 19, 1937, c. 74, §14.)

10455-18. Drugs shall be forfeited in certain cases.—All narcotic drugs, the lawful possession of which is not established or the title to which cannot be ascertained, which have come into the custody of a peace officer, shall be forfeited and disposed of as follows:

(a) Except as in this section otherwise provided, the court or magistrate having jurisdiction shall order such narcotic drugs forfeited and destroyed. A record of the place where said drugs were seized, of the kinds and quantities of drugs so destroyed, and of the time, place, and manner of destruction, shall be kept and a return under oath, reporting said destruction, shall be made to the court or magistrate and to the United States commissioner of narcotics, by the officer who destroys them.

(b) Upon written application by the state department of health, the court or magistrate by whom the forfeiture of narcotic drugs has been decreed may order the delivery of any of them, except heroin and its salts and derivatives, to said state department of health, for distribution or destruction, as hereinafter provided.

(c) Upon application by any hospital within this state, not operated for private gain, the state department of health may in its discretion deliver any narcotic drugs that have come into its custody by authority of this section to the applicant for medicinal use. The state department of health may from time to time deliver excess stocks of such narcotic drugs to the United States commissioner of narcotics, or may destroy the same.

(d) The state department of health shall keep a full and complete record of all drugs received and of all drugs disposed of, showing the exact kinds, quantities, and forms of such drugs; the persons from whom received and to whom delivered; by whose authority received, delivered, and destroyed; and the dates of the receipt, disposal, or destruction, which record shall be open to inspection by all federal or state officers charged with the enforcement of federal and state narcotic laws. (Mar. 19, 1937, c. 74, §15.)

10455-19. Board may suspend or revoke licenses in certain cases.—On the conviction of any person of the violation of any provision of this act, a copy of the judgment and sentence, and of the opinion of the court or magistrate, if any opinion be filed, shall be sent by the clerk of the court, or by the magistrate, to the board or officer, if any, by whom the convicted defendant has been licensed or registered to practice his profession or to carry on his business. On the conviction of any such person, such board or officer may, in its discretion, suspend or revoke the license or registration of the convicted defendant to practice his profession or to carry on his business. On the application of any person whose license or registration has been suspended or revoked, and upon proper showing and for good cause said board or

officer may in its discretion, reinstate such license or registration. (Mar. 19, 1937, c. 74, §16.)

10455-20. Records, etc., to be open to inspection.—Prescriptions, orders, and records, required by this act, and stocks of narcotic drugs, shall be open for inspection only to federal, state, county, and municipal officers, whose duty it is to enforce the laws of this state or of the United States relating to narcotic drugs. No officer having knowledge by virtue of his office of any such prescription, order, or record shall divulge such knowledge, except in connection with a prosecution or proceeding in court or before a licensing or registration board or officer, to which prosecution or proceeding the person to whom such prescriptions, orders, or records relate is a party. (Mar. 19, 1937, c. 74, §17.)

10455-21. Restrictions on obtaining drugs.

(1) No person shall obtain or attempt to obtain a narcotic drug, or procure or attempt to procure the administration of a narcotic drug, (a) by fraud, deceit, misrepresentation, or subterfuge; or (b) by the forgery or alteration of a prescription or of any written order; or (c) by the concealment of a material fact; or (d) by the use of a false name or the giving of a false address.

(2) Information communicated to a physician in an effort unlawfully to procure a narcotic drug, or unlawfully to procure the administration of any such drug, shall not be deemed a privileged communication.

(3) No person shall wilfully make a false statement in any prescription, order, report, or record, required by this act.

(4) No person shall, for the purpose of obtaining a narcotic drug, falsely assume the title of, or represent himself to be a manufacturer, wholesaler, apothecary, physician, dentist, veterinarian, or other authorized person.

(5) No person shall make or utter any false or forged prescription or false or forged written order.

(6) No person shall affix any false or forged label to a package or receptacle containing narcotic drugs.

(7) The provisions of this section shall apply to all transactions relating to narcotic drugs under the provisions of Section 8 of this act, in the same way as they apply to transactions under all other sections. (Mar. 19, 1937, c. 74, §18.)

10455-22. Burden of proof.—In any complaint, information, or indictment and in any action or proceeding brought for the enforcement of any provision of this act, it shall not be necessary to negative any exception, excuse, proviso, or exemption, contained in this act, and the burden or proof of any such exception, excuse, proviso, or exemption, shall be upon the defendant. (Mar. 19, 1937, c. 74, §19.)

10455-23. State department of health to cooperate with police officers.—The state department of health shall cooperate with all peace officers within this state, and all county attorneys to enforce the provisions of this act and with all agencies charged with the enforcement of the laws of the United States, of this state and of all other states relating to narcotic drugs. (Mar. 19, 1937, c. 74, §20.)

10455-24. Penalties for violation.—Any person violating any provisions of this act shall, upon conviction, be punished by a fine not exceeding \$1000.00 or by imprisonment in a state penal institution for not exceeding five years, or by both such fine and imprisonment. (Mar. 19, 1937, c. 74, §21.)

Violation of this act constitutes a felony. Op. Atty. Gen. (156c), Dec. 10, 1937.

10455-25. Who may be prosecuted.—No person shall be prosecuted for a violation of any provisions of this act if such person has been acquitted or convicted under the federal narcotic laws of the same act or omission which, it is alleged, constitutes a violation of this act. (Mar. 19, 1937, c. 74, §22.)

10455-26. Provisions severable.—If any provision of this act or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this and the provisions of this act are declared to be severable, and nothing in this act may be construed into placing any citizen of this State in double jeopardy, either State or Federal, for the same offense. (Mar. 19, 1937, c. 74, §23.)

10455-27. Interpretation of act.—This act shall be so interpreted and construed as to effectuate its general purpose, to make uniform the laws of those states which enact it. (Mar. 19, 1937, c. 74, §24.)

10455-28. Laws repealed.—Mason's Minnesota Statutes of 1927, Sections 10453 to 10455-3 and all acts amendatory thereof and supplemental thereto, except Chapter 321, Session Laws of 1935, together with all other acts or parts of acts which are inconsistent with the provisions of this act, are hereby repealed. (Mar. 19, 1937, c. 74, §25.)

10455-29. Uniform narcotic drug act.—This act may be cited as the Uniform Narcotic Drug Act. (Mar. 19, 1937, c. 74, §26.)

10458. Frauds on innkeepers.

Statute covers offense of defrauding a cafe or restaurant. Op. Atty. Gen. (494B-16), April 12, 1939.

10463. Trusts and combinations in restraint of trade prohibited.

A patent pooling agreement held not an unlawful attempt to restrain trade. 181M606, 233NW870. See Dun. Dig. 8437.

Contract which restrained trade and limited competition in a reasonable way only, was not obnoxious to the statute. Pittsburgh Plate Glass Co. v. P., 182M368, 234NW453. See Dun. Dig. 8436(1).

Contracts should be so construed as to uphold rather than defeat them. Pittsburgh Plate Glass Co. v. P., 182M368, 234NW453. See Dun. Dig. 8434(92).

Where all of newspapers in county agreed that only one would bid for county publication, and this fact was made known to county board, and a bid for highest legal rate was accepted on condition that publication be made in form of supplement and be distributed by all papers in county, bidder was entitled to recover whole contract price as against claim of county that agreement was fraudulent and illegal. Brainerd Dispatch Newspaper Co. v. C., 196M194, 264NW779. See Dun. Dig. 8434.

Where plaintiff in New York and defendant in Minnesota executed in New York a contract for leasing of motion picture reproducing equipment, which, pursuant thereto, was subsequently installed by plaintiff's agents, making of contract was an interstate transaction and subject to federal anti-trust laws, and installation of complex and intricate equipment by plaintiff's engineers was purely incidental and did not remove transaction from that field. General Talking Pictures Corp. v. D., 203M28, 279NW750. See Dun. Dig. 8437.

A tying agreement which requires lessee or purchaser of motion picture equipment to purchase repair parts from maker of equipment is not necessarily unreasonable restraint of trade since it may reasonably be necessary in order to effect satisfactory service to lessee or buyer, but is a question of fact upon which trial court's finding adverse to defendant is conclusive in absence of a settled case or bill of exceptions. Id. See Dun. Dig. 8437.

A creamery corporation may not enter into an agreement with cooperative marketing association to fix the price of milk, but such a contract may be entered into by one cooperative marketing association with other cooperative associations. Op. Atty. Gen. (93a-14), Sept. 15, 1934.

Although all newspapers of county have an understanding that they will make no publication for county only at legal rates and have divided up printing and submitted bids according to such understanding, mandamus will not lie to compel newspaper designated by county auditor to publish delinquent tax list at legal rate. Op. Atty. Gen. (314b-22), Feb. 9, 1937.

10464 to 10467. [Repealed.]

Repealed Mar. 30, 1937, c. 116, Pt. 1, §3, ante, §3976-39.

Annotations under §10464.

Payment by buyer of cream of daily cash price as posted during a month period and at the end of this period an additional two cents per pound to farmers bringing cream to station would violate §3928-8 but not this section. Op. Atty. Gen. (135b-6(f)), Oct. 12, 1936.

A symposium on the law of unfair competition. 21Iowa LawRev175.

10474. Petroleum—Discrimination between different localities prohibited.

Phrase "actual cost of transportation" in fair practices act held too uncertain to form base for crime. *State v. Northwest Poultry & Egg Co.*, 203M438, 281NW753. See Dun. Dig. 2417.

10482. Unfair discrimination in the purchase and sale of milk, cream.

Phrase "actual cost of transportation" in fair practices act held too uncertain to form base for crime. *State v. Northwest Poultry & Egg Co.*, 203M438, 281NW753. See Dun. Dig. 2417a.

Payment of additional price for butterfat when certain amount is sold does not violate this section if not limited to certain localities. *Op. Atty. Gen.* (135b-6(c)), Aug. 29, 1936.

10485. Monopolization of food products declared a criminal conspiracy.

City ordinance requiring license of transient merchants is not invalid as encouraging monopoly. *State v. Pehrson*, 287NW313. See Dun. Dig. 8435.

10488. Bucket shop defined—Crime, when complete—Intention of act.

Complaint alleging that orders placed by person acting in good faith with local brokerage association were bucketed with knowledge of copartnership engaged in brokerage business which furnished association with stock exchange information in violation of §§10488, 10490, held to state cause of action against association and copartnerships for damages caused by violation of statute intended for benefit of plaintiff. *Kaiser v. E.*, 200M545, 274NW680. See Dun. Dig. 3941.

Complaint alleging that local brokerage association received orders to purchase and sell shares of stock, with no intention of executing them, and which were never executed, held to charge brokerage association with bucketing. *Id.*

10490. Accessories.

Kaiser v. E., 274NW680; note under §10488.

10493. Gift enterprises defined.

It is not a gift enterprise to enclose a penny sucker within the paraffin wrapper of loaves of bread where the same kind and value is included with each loaf. *Op. Atty. Gen.*, Jan. 9, 1932.

10497. Gift enterprise defined.

Contest held not the sort of gift enterprise defined in this section. 173M337, 217NW345.

10500. Peace officers to be voters—Penalty.

Alien cannot be appointed village marshal but de facto marshal may make legal arrest. *Op. Atty. Gen.* (3f), March 24, 1939.

10503. Indians located on reservations.

Tribal Indians are immune from arrest or prosecution under state laws for acts committed upon their reservations or allotments. *Op. Atty. Gen.*, Dec. 2, 1931.

Though it may be unlawful for Indian to take wild animals on allotment, a tribal Indian is not personally amenable to state criminal laws. *Op. Atty. Gen.*, Apr. 11, 1933.

Muskrats' skins taken by tribal Indian on allotment may be seized as contraband where not intended to be used on reservation by Indian or his tribe. *Id.*

10520. Fraudulently presenting claims, etc.

If one presents a claim against a town for bounties on gophers and crows which he did not kill within the town, he violates this section. *Op. Atty. Gen.*, Mar. 18, 1931.

10522-1. Conservation of certain wild flowers.—No person within the State of Minnesota shall buy, sell, offer or expose for sale, the state flower (Cypripedium reginae) or any species of lady slipper (Cypripedieae) or any member of the orchid family trillium of any species, lotus (Nelumbolutea), gentian (Gentiana), arbutus (Epigaea repens), or any species of lilies (Lilium), or any thereof, dug, cut, plucked, pulled or gather [Sic] in any manner whatsoever from any public land, or from the land of any private owner without the written consent of such owner or other occupant of such land, and then only upon written permission of the Commissioner of Agriculture, Dairy and Food, and for scientific and herbarium purposes. Except that any persons may upon their own lands cultivate for sale and sell said flowers by registering the purpose to do the same with the Commissioner. ('25, c. 409, §1; Apr. 1, 1935, c. 100, §1.)

Transplanting moccasin flowers from marshes to home flower garden is not violation of this section, but might

afford cause of action for damages. *Op. Atty. Gen.*, June 12, 1930.

There is no other legislation pertaining to picking of wild flowers. *Op. Atty. Gen.*, May 9, 1933.

10522-2. Same—Prosecution.—The Commissioner of Agriculture, Dairy and Food is hereby authorized and it shall be his duty to administer this law, and when, by investigation, complaint or otherwise, it shall be made to appear that any person has violated any of the provisions of this act, it shall be his duty to assemble the facts and transmit the same to the Attorney General, or in the discretion of the Commissioner, he may act through the county Attorney of the county in which said violation was committed, whose duty it shall be to forthwith institute proceedings and prosecute the same against the person or persons charged with such violation. It is hereby made the duty of the County Attorney to prosecute any and all cases submitted to him by the Commissioner or the Attorney General. (Act Apr. 1, 1935, c. 100, §1.)

10522-3. Same—Punishment.—Any person who violates any of the provisions of this act shall be guilty of a misdemeanor, and upon conviction shall be fined not less than \$10.00 and the costs of such prosecution, nor more than \$50.00 and the costs of such prosecution, or in default of payment thereof shall be imprisoned in the county jail for not less than 10 nor more than 30 days for each and every such conviction. All fines and moneys thus collected shall be deposited in the State Treasury. ('25, c. 409, §2; Apr. 1, 1935, c. 100, §1.)

10522-4. "Person" defined.—The word "person" when used in this act shall be construed to impart both the singular and the plural as the case demands and shall include corporations, co-partnerships, companies, societies, firms and associations. (Act Apr. 1, 1935, c. 100, §1.)

10530. Railway cars obstructing roads and streets. Civil liability for placing car so as to obstruct view of main track. 174M404, 219NW554.

10534. Application of term "vagrancy" and extension of the same so as to include various persons.

Circulation of a "chain letter" or any variation of that scheme is not a public offense. *State v. Hellen*, 200M126, 273NW363. See Dun. Dig. 9997.

Conviction of vagrancy to cause one to become a habitual offender must be for violations of state laws and not municipal ordinances. *Op. Atty. Gen.* (605b-44), Dec. 19, 1936.

(5).

Evidence showing solicitation of two men for purposes of sexual intercourse for hire is sufficient to sustain a conviction of prostitution. *State v. Burke*, 187M336, 245 NW153. See Dun. Dig. 7860c.

10536-1. Employers' not to accept consideration for securing employment.—Any employer, or any manager, superintendent, foreman or other representative of any employer, who directly or indirectly demands or accepts from any employe any part of such employe's wages or other consideration, or any gratuity, in consideration of giving to or securing or assisting in securing for any employe any employment with such employer, shall be guilty of a misdemeanor. (Act Mar. 2, 1933, c. 47.)

10536-2. Circuses prohibited, when.—It shall be unlawful for any person or persons, firm or corporation to conduct any circus in any city or village, or within a radius of six miles of any city or village, within a period of eighteen days immediately preceding the dates of the annual Minnesota State Fair, or during the time of holding such fair. Provided, however, any such circus may be exhibited during this period of time, if and when said circus is engaged or contracted by an accredited Agricultural Society to form a part of the entertainment program of the annual fair of said accredited Agricultural Society. Provided that nothing herewith contained shall exempt said circus from obtaining proper license or permit as provided by law. (Act Apr. 21, 1933, c. 357, §1.)

10536-3. Violation a gross misdemeanor.—Any person or persons, firm or corporation violating the provisions of this Act shall be guilty of a gross misdemeanor and upon conviction shall be punished by a fine of not more than \$1,000.00 or by imprisonment in the county jail for a period not to exceed one year, or by both such fine and imprisonment. (Act Apr. 21, 1933, c. 357, §2.)

10536-4. All Acts and parts of Acts inconsistent herewith are repealed. (Act Apr. 21, 1933, c. 357, §3.)

10536-5. Visitors at tourist camps, etc., to register.—Every person operating within this State a tourist camp, cabin camp or other resort furnishing sleeping or over-night stopping accommodations for transient guests, shall provide and keep thereat a suitable guest register for the registration of all guests provided with sleeping accommodations or other over-night stopping accommodations at such camp or resort; and each and every such guest shall be registered therein. Upon the arrival of every such guest, the operator of such camp or resort shall require him to enter in such register, or enter for him therein, in separate columns provided in such register, the name and home address of the guest and each and every person, if any, with him as a member of his party; and if traveling by motor vehicle, the make of such vehicle, registration number, and other identifying letters or characters appearing on the official number plate carried thereon, including the name of the State issuing such official plate. (Apr. 12, 1937, c. 186, §1.)

10536-6. Shall register upon arrival.—Every person upon arriving at any touring camp, cabin camp or other resort described in this act and applying for guest accommodations therein of the character described in the preceding section shall furnish to the operator or other attendant in charge at such camp or resort the registration information necessary to complete his registration in accordance with the requirements of Section 1 hereof, and shall not be provided with accommodations unless and until such information shall be so furnished. (Apr. 12, 1937, c. 186, §2.)

10536-7. Registration records to be open for inspection of officers.—The registration records herein provided for shall be open to the inspection of all law enforcement officers of the State and its subdivisions. (Apr. 12, 1937, c. 186, §3.)

10536-8. Violation a misdemeanor.—Every person who shall violate any of the provisions of this act shall be guilty of a misdemeanor. (Apr. 12, 1937, c. 186, §4.)

Sec. 5 of Act Apr. 12, 1937, cited, provides that the Act shall take effect from its passage.

10536-11. County board to license shows, etc.—The board of county commissioners of the several counties of this state are hereby authorized to license and regulate itinerant shows, carnivals, circuses, endurance contests and exhibitions of any nature whatsoever except those prohibited by Laws 1935, Chapter 228 [§§10267-1, 10267-2]. Provided, however, that this act shall not apply to shows, carnivals, circuses, contests and exhibitions held within the incorporated limits of a village, borough or city. (Apr. 21, 1937, c. 331, §1.)

10536-12. County board to fix fees.—The fee for such license shall be fixed by the board of county commissioners in such amount as the board shall deem advisable. (Apr. 21, 1937, c. 331, §2.)

10536-13. May require bond.—The board of county commissioners may require, as a condition to the granting of such license, the posting of a penal bond in such amount as it shall determine. (Apr. 21, 1937, c. 331, §3.)

10536-14. Applications—forms.—Application for such license shall be made on such form as the board of county commissioners shall determine. Upon the approval of such application and the payment of the license fee and the posting of such bond as may be required the county auditor shall issue the license. (Apr. 21, 1937, c. 331, §4.)

10536-15. Taking part in unlicensed show, etc., to be misdemeanor.—Any person, partnership, association or corporation who conducts or takes part in any itinerant show, carnival, circus, endurance contest or exhibition not licensed as herein provided, shall be guilty of a misdemeanor. (Apr. 21, 1937, c. 331, §5.)

10536-16. Exceptions.—The provisions of this act shall not apply to any itinerant show, carnival, circus, endurance contest or exhibition held in connection with any agricultural association fair. (Apr. 21, 1937, c. 331, §6.)

10536-17. Blending of petroleum products prohibited.—The blending or mixing of petroleum products, such as kerosene, distillate, fuel oil or any by-product of crude oil or coal upon which gasoline tax has not already been paid or liability therefor reported to the Chief Oil Inspector, with gasoline upon which a tax has been paid or liability assessed therefor by the Chief Oil Inspector, is prohibited. (Act Apr. 22, 1939, c. 408, §1.)

10536-18. Same — Violations — Penalties.—Violation of this act shall constitute a gross misdemeanor and be punished accordingly. (Act Apr. 22, 1939, c. 408, §2.)

CHAPTER 104

Criminal Procedure

SEARCH WARRANTS

10537. When issued.

There was no error in condemning and destroying slot machines, though there was no search warrant. 176M 346, 223NW455.

Search warrants may not be issued in intoxicating liquor cases. Op. Atty. Gen. (218f-3), Apr. 18, 1934.

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. 6, 1935.

State law does not provide for search and seizure of intoxicating liquors, and it would be necessary for village ordinance to provide therefor. Op. Atty. Gen. (218f-3), Dec. 27, 1935.

10540. Property seized—How kept and disposed of.—Whenever, any officer, in the execution of a search warrant, shall find any stolen property, or seize any other things for which search is allowed by law, the same shall be safely kept by direction of the court or magistrate, so long as may be necessary for the purpose of being produced as evidence on any trial, and then the stolen property shall be returned to the owner thereof, and the other things seized destroyed under the direction of the court or magistrate. Any money found in gambling devices when seized shall be paid into the county treasury, or, if such gambling devices are seized by a police officer of a municipality, such money shall be paid into the treasury of such munic-