

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THOSE WHICH HAVE BEEN REPEALED OR SUPERSEDED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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PART V.

CONSTRUCTION OF STATUTES AND EXPRESS REPEALS

CHAPTER 107

STATUTES

The Revised Laws and Their Effect,
§§ 10918-10927.

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THE REVISED LAWS AND THEIR EFFECT

10918. How cited—When to take effect—Session laws not affected—These laws shall not be cited, enumerated, or otherwise treated as a session law of the present year, but shall be designated, "Revised Laws, 1905." They shall take effect March 1, 1906, but shall not be construed as abrogating any act passed at the session of 1905, all of which, so far as they differ from the Revised Laws, shall be construed as amendatory thereof or supplementary thereto. (5504) [9398]

Cited (120-313, 139+500).

130-397, 153+758; 131-332, 155+107; 139-96, 165+880; 196+465.

Issuance of village bonds. 157-469, 196+465.

10919. Former laws not revived—Vested rights not affected—The repeal, by these laws, of any act or part

thereof, whether the same be revised and re-enacted herein or not, shall not revive any law heretofore or hereby repealed or any office abolished. Neither shall it affect any act done, ratified, or confirmed, or any right accrued or established, or any action or proceeding had or commenced, in a civil cause, before the repeal takes effect; but the proceedings in such case shall conform, so far as practicable, to the provisions of the Revised Laws. (5505) [9399]

12-580, 503; 13-153, 138; 16-215, 187; 16-230, 202; 24-116, 122; 30-350, 352, 15+375; 45-231, 232, 47+794; 53-522, 55+815; 58-275, 278, 69+1015; 62-175, 179, 64+382. Cited (106-58, 118+63). Includes proceedings pending when Revised Laws went into effect, whether related to civil actions or otherwise (101-349, 112+278). 130-467, 153+878.

10920. Penalties, etc., not affected—Exception—Such repeal shall not affect any penalty or forfeiture previously incurred, except that any provision of the Revised Laws whereby a punishment, penalty, or forfeiture is mitigated, may be extended and applied to a judgment pronounced after they take effect; and in actions or prosecutions pending at the time of the repeal, for offences committed, or for the recovery of penalties or forfeitures incurred, under any of the acts repealed, the subsequent procedure shall conform, so far as practicable, to the Revised Laws. (5506) [9400]

10921. Tenure of offices preserved—Whoever, when said repeal takes effect, holds an office under any of the laws repealed, shall continue to hold it according to the tenure thereof, unless it is abolished or unless a different provision relative thereto is made by the Revised Laws. (5507) [9401]

10922. Continuation of former laws—The provisions of the Revised Laws, so far as they are the same as those of existing statutes, shall be construed as continuations thereof, and not as new enactments; and references in statutes not repealed to provisions of law which are revised and re-enacted herein shall be construed as applying to such provisions as so incorporated in the Revised Laws. (5508) [9402]

13-278, 256; 16-230, 202; 33-271, 22+614. Rule for construing revised statutes permits reference to and examination of prior statutes to ascertain intent of legislature, when the revised statute is ambiguous or susceptible to two constructions (99-248, 109+235; 99-307, 109+243; 112-76, 127+386). Changes will not be regarded as altering law, unless clear that such was intention (99-307, 109+243; 111-110, 126+477; 112-76, 127+386; 112-512, 128+833; 113-459, 130+18). Statute in Revised Laws, where complete in all its details and unambiguous, must be construed without reference to prior laws (100-249, 110+870). The provision relating to continuations of existing statutes is plain and explicit, and entitled to reasonable construction, such as will give effect to intention of legislature (101-349, 112+278). A provision incorporated into the revision is a continuation of the

original act (108-230, 122+11). Where two inconsistent statutes, relating to the same subject-matter, but passed at different times, are both incorporated into revision, court will, in construing them, inquire as to dates of respective enactments, and give effect to latest expression of legislature (107-437, 120+894; 113-298, 129+514; 115-446, 132+915). See, also, 102-15, 112+1050; 103-241, 114+762; 106-32, 119+391). Change in language or phraseology does not necessarily indicate intention to change in substance existing law, but is ordinarily to be ascribed to purpose to condense and simplify (113-27, 128+1112). Where two consistent statutes are approved same day, it will be presumed they were approved in their numerical order (115-446, 132+915).

133-326, 158+606; 151-404, 186+798.

10923. Periods of limitation continued—If, in any statute hereby repealed, a limit of time be prescribed for acquiring a right, barring a remedy, or any other purpose, which period has begun to run, and the same or a similar limitation is herein prescribed, the time of limitation shall continue to run with the same effect as though the whole period had elapsed under the operation of the Revised Laws. (5509) [9403]

13-153, 138; 16-230, 202; 22-380, 384; 45-231, 47+794.

10924. Revised Laws—How printed, etc.—Commission—The attorney general, the secretary of state and the state printer are hereby appointed and required to serve as a commission to provide for printing, binding, publishing and distributing the Revised Laws, 1905. ('05 c. 185 § 1) [9404]

Section 2 provides that the secretary of state shall be the custodian of the copies owned by the state, and shall distribute them among the public officers of the state as said commissioners shall prescribe.

Report of statute commission, see post, in appendix.

10925. Powers of commission—Copyright—The said commissioners may determine whether said Revised Laws shall be published by the state or by a private person, and are authorized to enter into contracts, for and on behalf of the state, for printing, binding, publishing and distributing said Revised Laws; they are authorized to fix the amount for which such Revised Laws shall be sold, but the price shall not exceed five dollars per volume to citizens or residents of the state; they shall cause said Revised Laws, when printed, to be copyrighted for the state, and they shall not sell or transfer the copyright to any person; and if said Revised Laws are published by a private person, said commissioners shall purchase not to exceed one thousand copies for distribution among the public officers of the state and for exchange. ('05 c. 185 § 2) [9405]

130-256, 153+325.

10926. Published laws as evidence—The Revised Laws, 1905, as published under the provisions of this act shall be competent evidence of the laws therein contained in all the courts of this state without further proof or authentication. ('05 c. 185 § 5) [9406]

133-326, 158+606.

10927. How published—The Revised Laws, 1905, shall not be published otherwise than under the provisions of this act. ('05 c. 185 § 6) [9407]

CONSTRUCTION

10928. When to take effect—Every act of the legislature which does not expressly declare when it shall take effect shall be in force from and after its approval by the governor; or, if the governor shall refuse or neglect to approve the same, then from and after it shall become operative, without his signature, by virtue of the constitution. (5510) [9408]

133-178, 158+50; 152-269, 188+556.

10929. Revision to operate as repeal, when—Whenever a statute, enacted after the Revised Laws become operative, by its title purports to be a revision of all laws upon a particular subject, or of a particular chapter therein specified, or whenever such statute does, in fact, cover the entire subject matter of a former law, even if such statute contains no repealing clause, or only a general clause repealing laws inconsistent therewith, it shall be construed as repealing all former laws upon the same subject, or all of the chapter referred to not specifically retained. (5511) [9409]

Repeal by implication (98-256, 108+838). 135-145, 160+253.

166-202, 207+309.

10930. Effect of repeal—Whenever a law is repealed which repealed a former law, the former law shall not thereby be revived, unless it is so specially provided; nor shall such repeal affect any right accrued, any duty imposed, any penalty incurred, or any proceeding commenced, under or by virtue of the law repealed. (5512) [9410]

25-457, 459; 31-360, 363, 17+957; 39-376, 40+261; 62-540, 544, 64+1022; 76-69, 78+883; 129 Fed. 657, 64 C. C. A. 169.

165-8, 205+609.

10931. Amendments validated—That all bills heretofore or hereafter introduced at this and subsequent sessions of the legislature purporting to amend or repeal any part or parts of the laws of this state by reference in the title and body of such bills to the General Statutes of Minnesota, 1913, shall be taken and construed to mean, and shall have the same force and validity as if the said bills referred to the original enactment or enactments in the Revised Laws of Minnesota for 1905, and the subsequent General Laws of Minnesota including those for the year 1905, and set forth in the General Statutes of Minnesota, 1913. ('15 c. 59 § 1)

10932. Rules of construction—In construing statutes the following rules shall govern, unless their observance would involve a construction inconsistent with the manifest intent of the legislature, or repugnant to the context of the same statute:

1. Words and phrases not especially defined shall be construed according to the common and approved usage of the language, but technical or other words and phrases which have acquired a peculiar and appropriate meaning in the law shall be given such meaning; and clerical and typographical errors shall be disregarded when the intent is clear.

2. Words importing the singular number may extend and be applied to several persons or things, words importing the plural may include the singular, and words importing the masculine gender may be applied to females.

3. Words purporting to give a joint authority to three or more public officers or other persons shall be construed as conferring such authority upon a majority of them, unless it shall be otherwise expressly declared in the law giving the same. (5513) [9411]

See in general 133-50, 157+908; 134-131, 158+798.

Subd. 1 (3-389, 282; 18-361, 331; 25-146; 58-525, 533, 60+672; 72-165, 75+123; 89-502, 95+449; 120-443, 139+949; 124-35, 144+417). Subd. 2 (95-164, 103+889; 112-433, 128+578). Subd. 3 (41-69, 42+696; 61-56, 62, 63+176; 107-420, 102+753; 133-50, 157+908; 134-309, 159+789).

The Legislature, in the enactment of a statute, will be assumed to have used common words in their ordinary meaning. 158-111, 196+930.

The appellate court cannot assume, in order to sustain an indictment and conviction, that words having a common and generally accepted significance have been

used in such an unusually broad fashion as to include cases clearly beyond their ordinary meaning. 158-111, 196+930.

When a state adopts a foreign statute, it presumably adopts the construction already given it by the state where it was first adopted. 160-343, 200+76.

Legislative action is unnecessary to affirm the existence of common law; but statutory enactment is essential to repeal, abrogate, or change the rules or doctrine of the common law. It is the province of the Legislature, and not of the courts, to modify the rules of common law. 160-343, 200+76.

10933. Particular words and phrases—The following words and phrases, used in the Revised Laws or in future legislative acts, shall have the meaning herein given, unless another intention clearly appears.

1. Clerk—The word "clerk," when used in reference to court procedure, shall mean the clerk of the court in which the action or proceeding is pending, and the words "clerk's office" shall mean his office.

2. County, etc.—Whenever a county, town, city, or village is mentioned, without any particular description, it imports the particular county, town, city, or village appropriate to the matter.

3. Felonious—Infamous crime—The word "felonious" shall mean criminal, and the phrase "infamous crime" shall include every offence punishable with death or imprisonment in the state prison.

4. Folio—The word "folio" shall mean one hundred words, counting as a word each figure necessarily used. If there be fewer than one hundred words in all, the paper shall be computed as one folio; likewise any excess over the last full folio.

5. Highway—The word "highway" shall include roads laid out by state or United States authority, or by any town or county, and all bridges thereon.

6. Holidays—The word "holiday" shall include New Year's Day, January 1, Lincoln's Birthday, February 12; Washington's Birthday, February 22; Memorial Day, May 30; Independence Day, July 4; Labor Day, first Monday in September; election day, the first Tuesday after the first Monday in November of the even numbered years; Christmas Day, December 25; the Friday next preceding Easter Sunday and commonly known as Good Friday; and Armistice Day, November 11th. No public business shall be transacted on those days, except in cases of necessity, nor shall any civil process be served thereon.

7. Insane persons—Spendthrifts—The words "insane person" shall include every idiot, non compos, lunatic, and distracted person; and the word "spendthrift" shall mean any one who is liable to be put under guardianship on account of excessive drinking, gaming, idleness, or debauchery.

8. Issue—The word "issue," as applied to the descent of estates, shall include all the lawful lineal descendants of the ancestor.

8A. Juvenile court—The words "juvenile court" shall mean the court having jurisdiction in the particular county over cases of dependent, neglected and delinquent children, whether the same be a district or probate court.

9. Lands, etc.—The words "land," "lands," "realty," and "real estate" shall include lands, tenements, and hereditaments, and all rights thereto and interests therein.

10. Oath—Sworn—The word "oath" shall include "affirmation," in all cases where by law an affirmation may be substituted for an oath; and in like cases the word "swear" shall include "affirm," and "sworn," "affirmed."

11. Person—The word "person" may extend and be

applied to bodies politic and corporate, and to partnerships and other unincorporated associations.

12. Population—The word "population," and the word "inhabitants," when used in reference to population, shall mean that shown by the last preceding census, state or United States, unless otherwise expressly provided.

13. Preceding—Following—The word "preceding" or "following," when used with reference to any section of the Revised Laws, shall mean the section last preceding or next following unless some other section is expressly designated in such reference.

14. Published and posted notice—Unless otherwise specially provided, the words "Published notice," when used in reference to the giving of notice in any proceeding or the service of any summons, order or process in judicial proceedings, shall mean the publication in full of the notice or other paper referred to, in the regular issues of a qualified newspaper, once in each week and at uniform intervals, for the number of weeks specified. Provided, however, that when one of the regular publication days for such notice, summons, order or process shall fall upon Thanksgiving Day or upon any legal holiday then and in that case it shall be a compliance with the law to have said notice, summons, order or process published either the day before or the day after Thanksgiving Day or such legal holiday. And a "qualified newspaper" shall be one published in the county wherein the action or proceeding is pending or in which the thing to which such notice relates is to occur or be done, and conforming to the requirements of § 10935; or, if there be none in such county, then in an adjoining county. The term "posted notice," when similarly used, shall mean the posting, at the beginning of the prescribed period of notice, of a copy of the notice or document referred to, in a manner likely to attract attention, in each of three of the most public places in the town, city, district or county to which the subject matter of the notice relates, or in which the thing of which notice is given is to occur or be performed.

15. Recorded—Filed for record—When an instrument in writing is required or permitted to be filed for record with, or recorded by, any officer, the same imports that it must be recorded by such officer in a suitable book kept for that purpose, unless otherwise expressly directed.

16. Seal—When the seal of a court, public office, or corporation is required by law to be affixed to any paper, the word "seal" shall include an impression thereof upon the paper alone, as well as an impression on a wafer, wax, or other substance thereto attached.

17. State—United States—The word "state," when applied to a part of the United States, shall extend to and include the District of Columbia and the several territories; and the words "United States" shall embrace said District and territories.

18. Sheriff—The word "sheriff" may be extended to any person officially performing the duties of a sheriff, either generally or in special cases.

19. Time—Month, year, A. D.—The words "month" and "year" shall mean a calendar month or year, unless otherwise expressed; and the word "year" shall be equivalent to the expression "year of our Lord."

20. Time—Standard—The mean solar time of ninety degrees longitude west of Greenwich, being that commonly called "central time," shall be the standard of time for all purposes.

21. Time—How computed—In computing the time

within which an act is required or permitted to be done, the first day shall be excluded and the last included, unless the last shall fall on Sunday or on a holiday, in which case the prescribed time shall be extended so as to include the first business day thereafter.

22. Town—The word "town" may include cities, villages, boroughs, and districts, unless such construction would be repugnant to the provisions of any act especially relating thereto.

23. Will—Codicil—The term "will" shall be construed as including codicils.

24. Writing—The words "written" and "in writing" may include any mode of representing words and letters, except that signatures, when required by law, must be the handwriting of the person, or, if he be unable to write, his mark, or his name written by some person at his request and in his presence. (R. L. § 5514, amended '07 c. 254; '17 c. 233; '21 c. 15; '21 c. 171) [9412]

Explanatory note—Par. 20 is superseded by Laws 1927, c. 157, § 1. See § 10933-1, herein.

In general—126-285, 151+273; 130-205, 153+518. Subd. 2. 140-494, 168+589. Subd. 3 (12-293, 191). Subd. 6 (32-118, 121, 19+738; 41-269, 43+7; 50-457, 463, 52+915; 94-500, 103+499). 129-383, 152+777; 129-522, 151+273; 132-389, 157+642. Subd. 8. 194+769. Subd. 9 (21-101, 106; 31-354, 355, 17+954; 43-513, 515, 45+1099; 83-445, 447, 86+450; 91-60, 63, 97+449; 91-482, 484, 98+463). 140-477, 168+553. Subd. 11 (23-396, 398, 10+421; 33-434, 436, 23+848). Subd. 12. 124-127, 144+757. Subd. 13 (4-233, 166). Subd. 14. 126-282, 148+271; 127-84, 148+891; 130-202, 153+517. Subd. 15. 121-173, 141+101. Subd. 16 (90-393, 96+1128). Subd. 21 (6-192, 123; 16-230, 202; 23-61; 25-327; 27-197, 6+621; 31-119, 16+704; 34-403, 26+225; 39-426, 40+561; 45-231, 47+794; 48-223, 50+1038; 50-303, 52+863; 53-269, 55+121; 61-185, 63+489; 73-65, 75+752; 102-89, 112+880; 104-481, 117+158; 108-407, 120+526, 122+486). 129-522, 151+273; 139-420; 166+1077; 152-96, 188+736; 194+93. Subd. 22 (33-351, 23+526; 90-406, 408, 97+103). Subd. 24. "Signature" includes mark (103-286, 114+838). Cited and applied (106-464, 119+59).

Time for redemption. 156-30, 194+93.

In determining the consequences of a disregard of a statutory provision as to time, a court must seek to ascertain the legislative intention. It will consider the language of the statute, the subject-matter, the importance of the provision, and the object intended to be secured. If the provision does not go to the essence of the thing to be done, or if there are no negative words restricting the doing of an act after the time fixed by the statute, the provision will usually be held directory. 156-310, 194+643.

Judicial notice of census. 160-510, 200+813.

Issue. 156-366, 194+766.

Writing—Assignment of mortgage. 159-252, 198+807.

10933-1. Standard time—The standard of time in this state shall be the solar time of the ninetieth meridian west of Greenwich, commonly known as central time, and no department of the state government and no county, city, town or village shall employ any other time or adopt any ordinance or order providing for the use of any other than the standard of time. Provided, that when the standard time shall be advanced for any portion of the year, by any act of Congress now in force or hereafter passed, the time so fixed by such act of Congress shall be the standard time of this Commonwealth for such portion of the year. ('27, c. 157, § 1)

10934. Newspapers legalized—No newspaper in this state which conforms in all respects to the statutes defining a legal newspaper, with the exception that the same has not been published for the requisite length of time, shall be deprived of its standing as a legal newspaper at the time the same shall have been published for the requisite length of time, provided it shall have during such time met the other requirements of a legal newspaper, by reason of a failure of publication for one week at some time after the

commencement of the publication of such newspaper. ('21 c. 407 § 1)

10934-1. Publications by consolidated newspaper legalized—In all cases where two newspapers published in any county in this state which have in all respects for several years prior to the 1st day of July, 1926, conformed to the requirements defining a legal newspaper, and within eight months prior to the passage of this act entered into a contract for the consolidation of such newspapers to be published under a different name but in the same town and locality where formerly published and on the same day of the week, and said contract so far progressed that said newspapers were in fact published under the new name in all respects in a legal manner on the same day of the week and in the same city and county and the legal notices and other publications being published in either or both of said newspapers are continued in the new publication for a period of several months, but owing to certain obstacles said contract of consolidation is rescinded and said newspapers again separate and resume publication under their original names and place in the same county all legal publications made in such newspapers before or during such attempted consolidation or thereafter are hereby validated and legalized and said newspapers after resuming publication under their original names are hereby declared legal newspapers as though said consolidation had never been attempted. ('27, c. 18)

10935. Legal newspaper qualifications—A newspaper in order to be qualified as a medium of official and legal publications, shall:

(1) Be printed from the place from which it purports to be issued, and in column and sheet form equivalent in space to at least four pages, with five columns to the page, each seventeen and three-quarters inches long." Provided, however, that any newspaper which is issued from an office located within the city of the fourth class may be printed in an adjoining city of the first class.

(2) It shall be issued at least once each week, and if a daily at least six days of each week, from a known office established in such place for publication and equipped with skilled workmen and the necessary material for preparing and printing the same; except in any week in which a legal holiday or Thanksgiving day is included, not more than five issues of a daily paper shall be necessary, provided that part of the press work shall be done in its known office of publication, except in cities of the first class when the press work may be done elsewhere; and provided that when any newspaper is issued from an office located within a city of the fourth class, and is printed in an adjoining city of the first class, its said office need not be equipped with skilled workmen and the necessary material for preparing and printing the same.

(3) Contain general and local news, comment and miscellany, not wholly duplicating any other publication, and not entirely made up of patents, plate matter and advertisements.

(4) Be circulated in and near its place of publication to the extent of at least two hundred and forty copies regularly delivered to paying subscribers.

All of the foregoing conditions shall have existed for at least one year last past, provided, however, that any newspaper which shall have been a duly, qualified medium of legal publication for at least one year immediately preceding the passage of this act, and which shall at any time prior to the time this act shall take effect conform to the requirements herein provided for,

shall not affect the qualification or validity of such newspaper as a medium of official and legal publication, and such newspaper shall be deemed to be a legal newspaper, provided that suspension of publication for a period of not more than three months within said year, resulting from the destruction of its office by the elements of unforeseen accident to the equipment thereof shall not affect the qualification of such newspaper after it shall have resumed; nor shall the consolidation of one newspaper with another published in the same county, nor any change in the name or ownership thereof, disqualify it or invalidate any publication continuously made therein before and after the change; Provided further that all legal notices shall be printed in the English language.

Neither the change of the day of publication nor the change of office or place of publication from one place to another within the same county shall deprive it of standing as a legal newspaper, and it shall be deemed to be a legal newspaper notwithstanding such change of the day of publication or change of office and place of publication within the same county. (R. L. '05, § 5515; '07, c. 3; '11, c. 379, § 1; G. L. '13, § 9413; '21, c. 484, § 3; amended as to sub. sec. (1) by '23, c. 203; as to sub. sec. (2) by '27, c. 28, § 1)

25-146; 38-349, 37+792; 45-27, 47+309; 54-281, 56+80. Weekly newspaper conforms to statute (98-113, 107+728). Cited and applied (117-214, 135+385).

123-1, 142+886; 130-202, 153+517; 139-348, 166+403; 152-350, 188+222. See '07 c. 4 Cur.; '07 c. 100 Cur.; '07 c. 463 Cur.; '17 c. 506 Cur.

10936. Affidavit—Evidence—No compensation shall be recoverable for publishing legal or official matter in any newspaper not so qualified, nor until there shall have been filed with the county auditor the affidavit of a person having knowledge of the facts, showing the name and location of the newspaper and the existence of conditions constituting its qualifications as a legal newspaper as required and set forth in section three of this act. If the matter published relates to proceedings in another county, a like affidavit must be filed with its auditor also. And such affidavit, if it states the required facts, shall be prima facie evidence thereof and of such qualification. Nor shall any compensation be recoverable for publishing legal or official matter in any newspaper unless the bill for same is accompanied by an affidavit of the publisher or printer in charge of such newspaper having knowledge of the facts, setting forth the fact that such newspaper has complied with all the requirements that constitute a legal newspaper as defined in sections three and four of this act, and such affidavit must contain a printed copy of the lower case alphabet from A to Z, both inclusive, which copy of the alphabet must be acknowledged in the said affidavit by the publisher, or printer in charge, having knowledge of the facts, as being the size and kind of type used in the composition and publication of the legal or official matter published in such newspaper for which such compensation is claimed; and such affidavit must set forth the dates of the month and year and the day of the week upon which such legal or official matter was published in such newspaper. ('21 c. 484 § 4)

10937. Published notice—Unless otherwise specifically provided, the words "published notice," when used in reference to the giving of notice in any proceeding or the service of any summons, order or process in judicial proceedings, shall mean the publication in full of the notice, or other paper referred to, in the regular issue of a qualified newspaper, once each

week and at uniform intervals, for the number of weeks specified; provided that when the publication day of any newspaper falls upon Thanksgiving Day or upon any legal holiday, the publication of any summons, order or process in judicial proceedings may be made either the day before or the day after Thanksgiving Day, or the day before or the day after such legal holiday. ('21 c. 484 § 5)

10938. Controversy publisher and public official—In case of controversy or disagreement between a publisher of a newspaper and a public official of this state as to the measurement of any legal notice published or required by law to be published in newspapers, such public official is hereby required to submit a copy of the printed notice to the state expert printer, who shall measure such notice and attach thereto a certificate signed by him, giving the number of folios and the amount of the fees allowed for the publication of such notice. ('21 c. 484 § 6)

10939. Basis of measurement—The basis of measurement of type used in the publications of notices and forms required by law to be published in a newspaper in this state shall be as follows:

(1) One inch in length shall contain seventy-two (72) points of type measurement.

(2) Nonpareil or six-point type shall be twelve (12) lines to the inch and the length of the lower case alphabet from A to Z inclusive set in compact form shall be nine and one-half (9½) ems Pica, or twelve-point type, a total of one hundred and fourteen (114) points in length. A folio of Nonpareil or six-point type as described herein shall be two hundred and sixty (260) square ems. A square em of Nonpareil is six points square.

(3) Brevier or eight-point type shall be nine (9) lines to the inch and the length of the lower case alphabet from A to Z, both inclusive, set in compact form shall be ten (10) ems Pica, a total of one hundred and twenty points (120). A folio of Brevier or eight-point type shall be two hundred eight (208) square ems. A square em of Brevier or eight point type as described herein shall be eight points square.

(4) Long Primer or ten-point type shall be seven and two-tenths (7.2) lines to the inch, and the length of the lower case alphabet from A to Z, both inclusive, shall be eleven and three-fourths (11¼) ems Pica, a total of one hundred and forty-one (141) points. A folio of Long Primer or ten-point type as described herein shall be one hundred eighty-seven (187) square ems. A square em of Long Primer is ten points square.

(5) Agate type shall be fourteen lines to the inch, and the length of the lower case alphabet from A to Z, both inclusive, set in compact form shall be seven and one-half (7½) ems Pica, a total of ninety points. A folio of Agate type shall be two hundred and fifty square ems. A square em of Agate is five and one-seventh (5 1/7) points square.

(6) In the measurement of type as set forth in these rules, leads and slugs, between lines, if any, are to be deducted and the deduction for over-spacing between words, if any, shall be made, but this rule must not be construed to preclude a reasonable amount of spacing for headings and sub-headings of a legal notice, which headings and sub-headings with the proper spacing are to be measured as being of the same type of the body of the notice published.

(7) In all instances where notices for publication are set in type that does not conform to the sizes

herein set forth as the standard type for the basis of measurement for legal notices for publications in newspapers in this state, whatever difference there may be in size must be taken into consideration in determining the number of folios in the legal notice in order that the same shall be made to conform with the standard.

(8) In the measurement of a legal notice a fraction over a full number of folios equal to one-half folio or less shall be computed as one-half folio; a fraction over one-half and less than one folio shall be computed as one folio. ('21 c. 484 § 1)

10939-1. Fees for publication of legal notices—The fee for publication of a legal notice in any legal newspaper in this state shall be Ninety (90) cents per folio for the first insertion and Forty Five (45) cents per folio for each subsequent insertion of a notice. The fee for the publication of the delinquent tax list shall be the same as now provided by Sec. 2096, General Statutes of Minnesota, 1913, provided, that in all cases where a notice for publication contains tabular matter in whole or part, or what is termed "price and one-half" or "double price" composition, an additional fee of twenty-five cents per folio shall be paid for all such price and one-half and double price composition matter for the first insertion of a notice, provided further, that in the publication of official ballots for elections in the counties and state the same shall be measured as though the entire space occupied is that of solid Brevier or eight-point type, and no additional fee shall be allowed on account of tabular matter. ('21, c. 484, § 2)

Explanatory note. See 2096 G. S. 1913 is § 2108 herein.

10940. State printer to prepare forms—Within one year after the passage of this act by the legislature of this state, the state expert printer shall prepare and issue a pamphlet containing a description and fac simile copy, and style of composition, as near as can be, of all notices required by law to be published by public officials in a newspaper in this state, for distribution; provided, such forms of official notices shall have the approval of the attorney general before being issued for distribution by the state expert printer, and such forms when so approved and so issued shall become a guide for public officials in the publication of official notices in newspapers. ('21 c. 484 § 7).

Explanatory note—Laws '21, c. 484, § 8 repeals G. S. '13, §§ 5780, 9413, 9414 and 9418.

10941. Minnesota Statutes compilation commission authorized—The governor, the chief justice of the supreme court and the attorney general of the State of Minnesota are hereby constituted a commission named the Minnesota Statutes Compilation Commission and are hereby empowered to enter into a contract by and on behalf of the State of Minnesota with any person, firm or corporation for the preparation, compilation and publication of the general statutes of this state. ('23 c. 95 § 1)

Minnesota Statute Compilation Commission abolished. See § 53-45, herein.

The contract entered into by the commission is in words and figures as follows, to-wit:

"THIS AGREEMENT made and entered into in duplicate this 23rd day of October, 1923, between the STATE OF MINNESOTA, by and through that certain commission created by and under the provisions of Chapter 95, General Laws 1923, and consisting of J. A. O. Preus, Samuel B. Wilson and Clifford L. Hilton, respectively the Governor, the Chief Justice and the Attorney General of the State of Minnesota, party of the first part, and the REVIEW PUBLISHING COMPANY, a corporation duly organized and existing under the laws of the State of Minnesota, party of the second part.

WHEREAS, said party of the second part has duly proposed to compile, annotate, index, print and publish in one volume the General Statutes of State of Minnesota 1923, all in accordance with the provisions of said Chapter 95, General Laws 1923, and as hereinafter further provided, which said offer the said party of the first part desires to accept.

NOW THEREFORE, in consideration of the premises and of the payment to be made by said party of the first part to said party of the second part as hereinafter provided, the respective parties hereto have covenanted and agreed as follows:

1. That said party of the second part will compile, annotate, index, print and publish, all in accordance with the terms, conditions and provisions of said Chapter 95, General Laws 1923, and the terms, conditions and provisions of this agreement and the specifications hereto attached, marked Exhibit "A" and expressly made a part hereof, that certain statute book to be known as "General Statutes 1923" and will furnish and deliver, at its own expense, one thousand copies thereof to the said party of the first part at the office of the Secretary of State, in the State Capitol Building, in the City of St. Paul, Minnesota.

2. That said work of compiling, annotating and indexing shall be done by or under the direct supervision of Hubert M. Harvey, of St. Paul, Minnesota, or such other person as may be employed therefor by said party of the second part with the written consent and approval of said commission.

3. That during the progress of said work of annotating, indexing and printing of said statutes, the same shall be submitted from time to time to the said commission, as it shall direct, for its inspection and approval, and that said party of the second part will follow and abide by all orders and directions of said commission in the preparing, annotating, indexing and printing of said statutes, providing such orders and directions do not substantially change the general character of said work.

4. That said party of the second part shall have said statutes ready for general delivery and shall deliver said one thousand copies thereof to the State of Minnesota within eight months from the date of this contract, unless prevented by causes beyond the control of said party of the second part, occasioned without any negligence on its part, but in case of delay so occasioned the said party of the second part shall have an additional time equal to the delay occasioned by such causes.

5. That said party of the second part shall, in addition to the said one thousand copies of said statutes to be delivered to the State of Minnesota as hereinbefore provided, furnish and deliver to said State of Minnesota all other copies thereof that it may from time to time request during a period of ten years from and after the date hereof, at the price of Six Dollars (\$6.00) per volume, delivered to the Secretary of State at his office in the Capitol Building, in the City of St. Paul, Minnesota, and that said party of the second part will further provide, furnish and deliver during said period of ten years to any person, firm or corporation so requesting all copies thereof desired, at said price of Six Dollars (\$6.00) per volume, plus postage, express, freight or other charges for delivery.

6. That said party of the second part shall cause the said statutes when duly published to be copyrighted in the name of the State of Minnesota, and that the matrix used in the printing thereof shall be kept and preserved for a period of ten years from the date hereof: and, if at any time during said period said party of the second part shall fail to provide and furnish to the State of Minnesota or to any person, firm or corporation, copies of said statutes as requested and as hereinbefore provided, then the said State of Minnesota, upon proper demand therefor, shall have possession of said matrix, with full right and privilege to use the same for the printing of such additional copies of such statutes as it may desire; that said party of the first part may, at its option, purchase said matrix at the end of said ten year period by paying said party of the second part the market value of the metal contained therein.

7. That said party of the first part will not at any time within ten years from the date hereof permit any person, firm or corporation to use said copyright in printing any copies of said statutes, unless the party of the second part has defaulted in providing and furnishing copies thereof as herein provided or the legislature has expressly authorized such use.

8. That it is further understood and agreed that said party of the second part may bind said statutes in two volumes and sell the same at such price as it may determine, provided that such privilege shall not in any manner relieve it of its obligation at all times to provide and sell the same in one volume, as hereinbefore provided, at the price specified to any and all persons, firms and corporations so desiring, it being understood that it is a privilege granted to said party of the second

part to meet any demand that may arise for such statutes in two volumes and was not taken into consideration in fixing the price of the single volume.

9. In consideration of the premises aforesaid and the full and faithful compiling, annotating, indexing, printing and publishing of said statutes as hereinbefore provided, and the delivery of one thousand copies thereof to the said State of Minnesota as specified, the said party of the first part undertakes and agrees to pay said party of the second part the sum of Six Thousand (\$6,000) Dollars, the same to be payable upon presentation to the proper authorities of a certificate duly executed by said commission showing that said statutes have been duly compiled, annotated, indexed, printed and published, as herein provided, and a certificate from the Secretary of State showing delivery of one thousand copies thereof to the State of Minnesota as herein specified."

The present edition of the statutes is published under Section 8 of said contract by the Citer-Digest Company under assignment from the Review Publishing Co.

10942. What shall be included—Such compilation shall include all the general statutes of this state in force at the time of its publication, including the Session Laws of 1923. It shall also include the constitution, organic act, enabling act and act of admission, of the State of Minnesota, and the constitution of the United States. It shall be published in one volume and be entitled General Statutes, 1923. The sections shall be numbered consecutively throughout the volume and contain references to prior compilations and session laws showing the history of the section. Beneath each section there shall be a brief statement of any decisions of the supreme court relating thereto, with references to the Minnesota Reports and the Northwestern Reporter. ('23 c. 95 § 2)

10943. Compiler authorized to make certain changes—The compiler is authorized to change headlines, cross-references, and the spelling of words. ('23 c. 95 § 3)

10944. Time of publication—Such compilation shall be published as soon as possible after the adjournment of the present session of the Legislature. ('23 c. 95 § 4)

10945. Prima facie evidence of statutes—Such compilation shall be prima facie evidence of the statutes therein contained, in all the courts of this state, without further proof or authentication. ('23 c. 95 § 5)

10946. Price not to exceed ten dollars—Such compilation shall be sold to the state and to individuals at a uniform price, not to exceed ten dollars a copy. ('23 c. 95 § 6)

10947. Secretary of State to purchase and distribute copies of General Statutes 1923—The Secretary of State is hereby authorized to purchase twelve hundred copies of such compilation to be distributed by him as follows: Three copies to each justice of the supreme court; one copy to each judge of a district court; one copy each to the probate judge, county attorney, auditor, treasurer, register of deeds and clerk of court of each county; one additional copy to the clerk of each district court, for use in the court room of the district court of his county, and, where there is more than one district court room in the court house of his county, as many copies as there are court rooms, one copy for each of said court rooms; one copy to each municipal

court (two or more copies where there are two or more judges); forty-five copies to the law library of the state; ten copies to the law school of the state university; twenty copies to the office of the attorney general; one or more copies as they may be required to the various executive officers, administrative boards, and societies of the state government; one copy to each member of the Legislature; the remaining copies to legislative committees as they may be required. ('23, c. 95, § 7; amended '25, c. 57)

10948. Appropriation—Twelve thousand dollars are hereby appropriated out of any moneys in the state treasury not otherwise appropriated to carry out the provisions of this act. ('23 c. 95 § 8)

10949. Commission may appoint successor to contractor—In case of failure or inability for any cause of the person, firm or corporation with whom the contract herein provided for, to comply with the terms of this act and the said contract, said commission is hereby authorized to appoint a successor to such contractor and shall hold the bond of the original contractor for the faithful compliance of such successor with this law and said contract. ('23 c. 95 § 9)

10950. Contractor to give bond—The person, firm or corporation appointed hereunder shall give a bond to the State of Minnesota in the sum of ten thousand dollars conditioned for the faithful performance of the provisions of this act within the time and in the manner described in this act. The determination of the question as to the faithful performance of the provisions of this act shall be left to the commission hereinbefore provided; which said commission is hereby authorized to approve or disapprove the said compilation, which if approved by the said commission, shall be adopted, if disapproved, rejected. ('23 c. 95 § 10)

10950-1. Appendix and addenda to General Statutes 1923—Secretary of State to purchase copies—The secretary of state is hereby authorized and directed to purchase of the Review Publishing Company 1,200 copies of the Appendix and Addenda to the General Statutes 1923, upon the approval thereof by the chief justice of the supreme court and the attorney general, at the price of \$1.25 per copy, the same to be paid for out of the appropriation made by Chapter 95, General Laws 1923. ('25, c. 83, § 1)

Explanatory note—For Laws 1923, c. 95 see §§ 10941 to 10949, herein.

10950-2. Same—Prima facie evidence—Upon the approval of such Appendix and Addenda by the chief justice and the Attorney General as aforesaid, the same shall be prima facie evidence of the statutes therein contained in all courts of the state without further proof or authentication. ('25, c. 83, § 2)

10950-3. Same—Distribution of copies—The secretary of state shall distribute the copies of said Appendix and Addenda in the same manner as the General Statutes 1923 was distributed, under Chapter 95, General Laws 1923, as amended by Chapter 57, General Laws 1925. ('25, c. 83, § 3)

Explanatory note—For Laws 1923, c. 95 see §§ 10941 to 10949, herein.

1940 Supplement
To
Mason's Minnesota Statutes
1927

(1927 to 1940)
(Superseding Mason's 1931, 1934, 1936 and 1938
Supplements)

Containing the text of the acts of the 1929, 1931, 1933, 1935, 1937 and 1939 General Sessions,
and the 1933-34, 1935-36, 1936 and 1937 Special Sessions of the Legislature, both new and
amendatory, and notes showing repeals, together with annotations from the
various courts, state and federal, and the opinions of the Attorney
General, construing the constitution, statutes, charters
and court rules of Minnesota together with digest
of all common law decisions.



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

MASON PUBLISHING CO.
SAINT PAUL, MINNESOTA
1940

10912. Stay of sentence.

See §§208-1 to 208-9.

10915-8. Same—Contingent fund for expenses.—

A contingent fund of \$2,500 per annum for the payment of transportation and incidental expenses incurred shall be set aside in the treasury of said county annually to be paid out only upon order of the court upon proper vouchers. Such probation officer, assistant probation officer or deputy probation officers may be allowed the sum of five cents per mile for actual mileage traveled when using their own automobiles in the performance of their duties which shall be paid to them monthly out of the above fund. ('23, c. 289, §8; Apr. 21, 1939, c. 362, §1.)

Editorial note.—Sec. 3 of Act Apr. 21, 1939, cited, provides that the act shall take effect Jan. 1, 1940.

The title of the act purports to amend "Laws 1923, chapter 289, sections 8, 12, and 16, as amended." The body of the act does not amend §16.

10915-11. Same—Annual report.

The county board of Ramsey County, the probation officer and the judge of district court may, in their discretion, print copies of annual report of probation officer of juvenile court and distribute them among welfare agencies, priests and ministers. Op. Atty. Gen., May 26, 1931.

10915-12. Same—Salaries to be fixed by district judges.—

The chief probation officer, assistant probation officer, deputy probation officers and all other employees in the office of the probation officer shall receive such compensation as shall be fixed by the judges of the district court of any such county. ('23 c. 289, §12; '27, c. 420, §3; '29, c. 380; Apr. 20, 1931, c. 257; Apr. 15, 1935, c. 190; Apr. 21, 1939, c. 362, §2.)

See note under §10915-8.

Part V. Construction of Statutes and Express Repeals

CHAPTER 107

Statutes

THE REVISED LAWS AND THEIR EFFECT

10918. How cited—When to take effect—Session laws not affected.

Revisor of statutes created. Laws 1939, c. 442.

10922. Continuation of former laws.

An intent to change the law will not be lightly inferred from a mere change of phraseology in a revision. Gilroy's Estate, 193M349, 258NW584. See Dun. Dig. 8961.

A revision of existing statutes is presumed not to have changed their meaning, even if there be phraseological alterations, unless an intention to change clearly appears from language of revised statute when considered in connection with subject-matter of act and its legislative history. State v. Montague, 195M278, 262NW684. See Dun. Dig. 8961.

Reenacted statute should receive the known, settled construction which it had received when previously in force. Wenger v. W., 200M436, 274NW517. See Dun. Dig. 8965.

CONSTRUCTION

10928. When to take effect.

Amending act which did not specifically provide when it was to take effect went into effect from and after its approval. Venteicher, 202M331, 278NW581. See Dun. Dig. 8946.

A tax statute, like any other statute will not be given a retrospective effect in the absence of an express command or a necessary implication. Board of Education v. A., 285NW80. See Dun. Dig. 9173.

Act takes effect the beginning of the day following its approval. Op. Atty. Gen., Apr. 9, 1929.

Laws 1933, c. 251, approved on April 15, became operative on April 16. Op. Atty. Gen., June 24, 1933.

Rule against retroactive legislation as a basic principle of jurisprudence. 20 MinnLawRev 775.

10929. Revision to operate as repeal, when.

State v. Schimelpfenig, 192M55, 255NW258; note under §§297, 10933(21).

Section 1538-1 does not repeal or modify the provisions of the charter of the City of St. Paul providing for condemnation of land for street and highway purposes. 177M146, 225NW86.

When two legislative acts are not expressly repugnant, but later act covers entire subject-matter of earlier and does not purport to amend it, and if it plainly appears that later act was intended as a substitute for earlier, it will operate as a repeal of former. Board of Education v. B., 192M367, 256NW894. See Dun. Dig. 8926.

If a statute is manifestly inconsistent with a prior statute covering the same subject, it repeals it, in whole or pro tanto, without any repealing clause, in absence of an expressed intention to contrary. Bemis Bro. Bag Co. v. W., 197M216, 266NW690. See Dun. Dig. 8927.

Prior statutes may be resorted to for purpose of solving, but not to create, an ambiguity, and if language of revision indicates an intention to adopt meaning of a prior statute, revised statute will be given that effect. Wenger v. W., 200M436, 274NW517. See Dun. Dig. 8961.

10930. Effect of repeal.

Sheriff agreeing to pay detective \$25 for each conviction for violation of liquor laws could pay such amount in pending cases for convictions occurring after effective date of Laws 1933, c. 130. Op. Atty. Gen., Apr. 28, 1933.

10931. Amendments validated.

An erroneous reference included in an amendatory act identifying statute to be amended may be eliminated as surplusage and statute read as corrected, where legislative intention is clear. Bull v. K., 286NW311. See Dun. Dig. 8985.

10932. Rules of construction.

½. Rules of construction in general.

Taxing statutes are generally construed with strictness. Webber v. K., (CCA8), 97F(2d)921.

Where legislative intent is reasonably apparent, court may properly disregard punctuation or repunctuate if necessary, to arrive at natural meaning of language used. Great Atlantic & Pacific Tea Co. v. E., (DC-Minn), 23F Supp70.

Legislative re-enactment of a statute will not validate an erroneous interpretation of it by an administrative official. Hanson v. L., (DC-Minn), 24FSupp535.

An erroneous construction of a revenue statute by an administrative officer is not binding on the courts. Id.

The court may look to the legislative history in construing a statute when there may be doubt on the subject. Twin Ports Oil Co. v. P., (DC-Minn), 26FSupp366.

Prima facie effect of similar South Dakota law construed. Berlin v. K., 183M278, 236NW307. See Dun. Dig. 8821, 8937a(99), 8956.

As between a statutory provision with special and limited application, and another, general in scope, special controls general within former's limited field. Rosenquist v. O., 187M375, 245NW621. See Dun. Dig. 8970.

Ambiguity will be resolved in favor of state. State v. Walsh, 188M412, 247NW523. See Dun. Dig. 8990.

Literal meaning of statute is not always conclusive, and there must be resort to construction when words, otherwise plain, result in ambiguity when applied to their subject-matter. State v. Walsh, 188M523, 247NW523. See Dun. Dig. 8938.

Strict construction of statutes in derogation of common law must not be used as cover for extraconstitutional limitations on legislative power. State v. Minneapolis, St. P. & S. S. M. Ry. Co., 190M162, 251NW275. See Dun. Dig. 1602.

However radical its change, a statute is not to be so narrowed by construction as to defeat its purpose, simply because it is an innovation on common-law principles. Id. See Dun. Dig. 8958.

Rules of judicial construction require that so far as possible conflicting provisions of a city charter be harmonized in conformity with announced legislative policy of state. State v. Erickson, 190M216, 251NW519. See Dun. Dig. 8951.

Fundamental rules of construction of statutes is to give effect to intention of legislature as expressed in language used. Id. See Dun. Dig. 8940.

Where there is a conflict, law later in point of original enactment will control. Id. See Dun. Dig. 8961.

Where facts are undisputed and provisions of ordinance are unambiguous and stated in clear language,

we cannot, by construction, change its terms or result of its application to facts. *Zalk & Josephs Realty Co. v. S.*, 191M60, 253NW8. See Dun. Dig. 1595.

The maxim *expressio unius* does not apply to constitutions with the same force that it does to statutes. *Reed v. B.*, 191M254, 253NW102. See Dun. Dig. 1576.

Ordinances and statutes must be given a reasonable and practical construction in accordance with intention of law makers. *State v. Witt's Market House*, 191M425, 254NW596. See Dun. Dig. 8939, 8945.

Rule of practical construction of statutes is not entitled to much weight against state in determining taxability of property. *Board of Education v. B.*, 192M367, 256NW894. See Dun. Dig. 8952.

It will be presumed that legislature intended an amendment to make some change in the law. *State v. City of Eveleth*, 194M44, 260NW223. See Dun. Dig. 8997.

Common usage can be resorted to in interpreting statute. *Bennett Commission Co. v. N.*, 195M7, 261NW593. See Dun. Dig. 8968.

If language of statute is reasonably susceptible of two constructions, the one rendering it constitutional must be adopted. *State v. Montague*, 195M278, 262NW684. See Dun. Dig. 8931, 8950.

A dominant rule of statutory construction is to discover and give effect to legislative purpose. To discover that purpose, object sought to be accomplished should be given great consideration. *North Shore Fish & Freight Co. v. N.*, 195M336, 263NW98. See Dun. Dig. 8940.

Courts may consider what might happen under statute to be construed if given construction contended for. *Id.* See Dun. Dig. 8947.

Meaning should be given to every portion of a document or statute. *State v. Goodrich*, 195M644, 264NW234. See Dun. Dig. 8951.

Where there is ambiguity, whole instrument or document should be considered in construction. *Id.*

Where a statute has been judicially construed, especially when administrative and executive officers charged with its enforcement have acquiesced therein over a long period of time, such construction becomes a part thereof, and its meaning and import are measured thereby. *Bemis Bro. Bag Co. v. W.*, 197M216, 266NW690. See Dun. Dig. 8952.

A statute must be construed so as to be practicable if that is possible. *Taxes Delinquent*, 197M266, 266NW867. See Dun. Dig. 8939.

Both constitutional and statutory declarations are to be interpreted in light of tacit assumptions upon which it is reasonable to suppose that language was used. *State v. Flores*, 197M590, 268NW194. See Dun. Dig. 8940.

When language of a statute is plain and unambiguous, there is no room for construction. *Hall Hardware Co. v. G.*, 197M619, 268NW202. See Dun. Dig. 8938, 8950, 8951.

Statutes are to be so construed as to suppress mischief and advance remedy, to promote rather than defeat legislative purpose. *State v. Sobelman*, 199M232, 271NW484. See Dun. Dig. 8962.

Clear and express purpose of legislature cannot be disregarded. *Van Sloun v. D.*, 199M434, 272NW271. See Dun. Dig. 8938.

Such construction should be adopted as will give effect to obvious legislative intent. *Knudson v. A.*, 199M479, 272NW376. See Dun. Dig. 8937(95).

A construction resulting in absurdity, injustice, or inconvenience is to be avoided if language used will reasonably bear any other construction. *Id.* See Dun. Dig. 8947.

Court must construe statute as a whole and give effect to all of its parts. *Id.* See Dun. Dig. 8951.

Practical construction of a statute by the bar for a long time is entitled to some weight, and in matters of practice it is entitled to great weight. *Id.* See Dun. Dig. 8952.

Statutes are presumed not to make any alteration in common law further or otherwise than they expressly declare and existing common law remedies are not to be taken away by a statute unless by express enactment or necessary implication. *State v. St. Cloud Milk Producers' Ass'n*, 200M1, 273NW603. See Dun. Dig. 8958.

Practical construction placed on taxing statutes by assessors, Tax Commission, and Attorney General, should have weight with courts. *Holmes v. B.*, 200M97, 273NW623. See Dun. Dig. 8952, 9177.

Act is to be liberally construed to give effect to real intent of legislature. *Colosimo v. G.*, 199M600, 273NW632. See Dun. Dig. 8940.

Ascertainment of legislative intent is aim sought in construing language of doubtful meaning whether that be employed in statutes or ordinances, and rules of interpretation are but guides to aid court in arriving at true intent. *Burns*, 200M191, 273NW691. See Dun. Dig. 8939, 8940.

Construction of statute must be reasonable, such as language used will reasonably bear. It must be practical. Questions involving government must not be determined along technical lines, but practical considerations should control. *Id.*

If intent of legislature is clearly expressed in plain and unambiguous language in a statute, court must give effect thereto, and, in absence of manifest mistake, such a statute is not one requiring construction. *Gullings v. S.*, 200M115, 273NW703. See Dun. Dig. 8938.

While a penal statute is to be strictly construed, such construction cannot be contrary to language used. *Id.* See Dun. Dig. 8989.

Ordinary function of a proviso is to exempt something from a statute which would otherwise be within its provisions, and it must be construed in harmony with remainder of statute. *Id.* See Dun. Dig. 8996.

A statute is to be enforced literally as it reads if its language embodies a definite meaning which involves no absurdity or contradiction. *Peterson v. H.*, 200M253, 273NW812. See Dun. Dig. 8938.

Although a statute be remedial in its terms and purposes, and as such to be liberally construed, court is without power to change plain language thereof by construing it so as to mean something different from what is clearly stated. *Id.*

Operation of statutes is often extended, by construction, to matters of subsequent creation and applied to conditions that accrue after their passage as well as to those that existed before. *Equality Tp. v. S.*, 200M316, 274NW219. See Dun. Dig. 8943.

A construction of a statute which would result in absurdity, injustice, or inconvenience is to be avoided if language used will reasonably bear any other construction. *Id.* See Dun. Dig. 8943, 8947.

Construction of a statute should be sensible. *State v. Schultz*, 200M363, 274NW401. See Dun. Dig. 8947.

Where act provided for is merely incidental and subsidiary to some chief purpose of law and is not designed for protection of third persons and statute does not declare consequences of a failure of compliance, statute will ordinarily be construed as directory and not mandatory. *Wenger v. W.*, 200M436, 274NW517. See Dun. Dig. 8954.

Words "shall", "must", are not always to be construed in a statute as being mandatory. *Id.* See Dun. Dig. 8979.

Judicial construction of a statute is as much a part thereof as if it had been written into it originally. *Zochrisen v. R.*, 200M383, 274NW536. See Dun. Dig. 8936b.

Construction of a statute must be reasonable and practical, and broad and practical considerations should control. *Id.* See Dun. Dig. 8939.

The legislative intent is not to be made to depend upon the collocation or arrangement of words alone, but upon reason and sense of thing, as indicated by entire context and subject-matter. *Rosenfield v. M.*, 201M113, 275NW698. See Dun. Dig. 8951.

An existing common-law remedy is not to be taken away by a statute unless by direct enactment or necessary implication. *Id.* See Dun. Dig. 8957.

Courts are not permitted by construction to carry a statute, particularly one in derogation of the common law, beyond its clearly defined scope. *Id.* See Dun. Dig. 8958.

A statute is to be enforced literally as it reads, if its language embodies a definite meaning which involves no absurdity or contradiction. *Lowe v. R.*, 201M280, 276NW224. See Dun. Dig. 8938.

Construction of a statute may be determined by its subject-matter, objects, and history. *First Minneapolis Trust Co.*, 202M187, 277NW899. See Dun. Dig. 8962, 8965.

Word "may" is not always used in statutes to express a directory meaning. *Id.* See Dun. Dig. 8979.

Use of word "shall" is not decisive as to whether a statutory provision is directory or mandatory. *Jerome v. B.*, 202M485, 279NW237. See Dun. Dig. 8979(89, 91).

Construction will be given a city ordinance that will not lead to absurdity or injustice. *State v. Kenny Boiler & Mfg. Co.*, 202M605, 279NW407. See Dun. Dig. 8947(49).

Practical construction placed on a statute by executive or administrative officers, or the legislature, and long acquiesced in by people, is entitled to great weight. *Equitable Holding Co. v. E.*, 202M529, 279NW736. See Dun. Dig. 8952(69, 70, 71).

Practical construction put on statute by authorities charged with its administration during a long period of time, known to legislative department and no effort being made to change statute, should not be set aside by court. *State v. Crookston Trust Co.*, 203M512, 282NW138. See Dun. Dig. 8952.

Intention of a remedial statute will always prevail over literal sense of its terms, and when expression is special or particular, but reason is general, expression should be deemed general. *Minn. Farmers Mut. Ins. Co. v. S.*, 204M101, 282NW658. See Dun. Dig. 8943(26, 27).

Where a statute contains a separability clause declaring that the act would have been passed irrespective of the unconstitutionality of invalidity thereof, unconstitutionality of an exclusion does not affect other parts of act, at least where remaining portions constitute an operative statute. *Mesaba Loan Co. v. S.*, 203M589, 282NW823. See Dun. Dig. 8936.

Words and phrases which have acquired an established meaning by judicial construction are deemed to be used in same sense in a subsequent statute relating to same subject matter. *Jones v. P.*, 204M333, 283NW535. See Dun. Dig. 8966.

Rule that after courts have once said that legislature meant a certain thing by certain language, legislature will be deemed to have intended same meaning by again using same language, applies to bankruptcy acts. *Id.* See Dun. Dig. 8966.

An enactment of a legislative body should be liberally construed in favor of constitutionality. *Sverkerson v. C.*, 204M388, 283NW555. See Dun. Dig. 8907.

If on its face or in application to its subject matter meaning of a statute is plain, it is not permissible to resort to an extraneous aid to construction, such as rule

that a statute is to be construed, if possible, as to make it constitutional. *Trustees of Pillsbury Academy v. S.*, 204M365, 283NW727. See Dun. Dig. 8938.

A statute should be construed as it reads, and effect given to clear meaning of its language. *State v. Minneapolis Fire Department Relief Ass'n*, 285NW479. See Dun. Dig. 8968.

A statute in derogation of common law should receive "a fair construction, with the purpose of its enactment in view," rather than a "strict construction" which limits or defeats that purpose. *Teders v. R.*, 286NW353. See Dun. Dig. 8958.

When confronted with a statute which is susceptible of different interpretations, court must accept that one which is in conformity with purpose of act and in harmony with constitution. *State v. Probate Court*, 287NW297. See Dun. Dig. 8943.

Statutes must be so construed as to give effect to every section and part, and when any doubts arise as to constitutionality thereof such doubts must be resolved in favor of law. *Id.* See Dun. Dig. 8995.

Provision in legislative act declaring all provisions to be inseparable and that if any clause is invalid, then whole act shall be invalid will be considered by the court to determine intent of legislature but court is not necessarily controlled thereby. *Op. Atty. Gen.* (724r), Feb. 21, 1935.

Practical construction of statutes. 20MinnLawRev56. Rule against retroactive legislation as a basic principle of jurisprudence. 20MinnLawRev 775.

Construction of tax statutes. 23MinnLawRev107. Application of rule of ejusdem generis to penal statutes. 23MinnLawRev545.

1. Judicial duty and policy.

A court will pass upon the constitutionality of a law only when necessary. 181M427, 232NW737. See Dun. Dig. 8930a.

Court must consider act valid until satisfied to contrary beyond a reasonable doubt. *Sweet v. R.*, 189M489, 250NW466. See Dun. Dig. 8931.

Every presumption is in favor of constitutionality of act of legislature and an act should not be declared unconstitutional except when court is satisfied, after most careful consideration, that it conflicts with some provision of state or Federal Constitution. *Reed v. B.*, 191M254, 253NW102. See Dun. Dig. 8929.

When a statute is challenged for unconstitutionality, it is the duty of the court to so construe it as to render it constitutional if it is possible to do so, though it may not virtually rewrite an unambiguous law. *Moses v. O.*, 192M173, 255NW617. See Dun. Dig. 8931.

Rules of statutory construction should not be enforced inflexibly, not being masters but rather servants of courts as aids in determining legislative intent. *Board of Education v. B.*, 192M367, 256NW894. See Dun. Dig. 8937.

Construction of bankruptcy act by United States Supreme Court prevails over any contrary interpretation by state courts. *Landy v. M.*, 193M252, 258NW573. See Dun. Dig. 738.

An intent to change the law will not be lightly inferred from a mere change of phraseology in a revision. *Gilroy's Estate*, 193M349, 258NW584. See Dun. Dig. 8961.

Court must take statute as it finds it and is not at liberty to add to it by a process which would be an amendment, and, in effect, judicial legislation. *Ross v. S.*, 193M407, 258NW582. See Dun. Dig. 8940.

Where evidence showed that defendant deliberately pointed gun at wife and shot her, court did not err in refusing to submit manslaughter. *State v. Norton*, 194M410, 260NW502. See Dun. Dig. 2486.

Courts will not declare a law unconstitutional unless it clearly appears that it violates one or more provisions of constitution. *State v. Scott County*, 195M111, 261NW863. See Dun. Dig. 8929.

Statute will not be construed so as to render it unconstitutional when it is open to a construction which is fair, reasonable, and wholly consistent with the constitution. *North Shore Fish & Freight Co. v. N.*, 195M336, 263NW98. See Dun. Dig. 8950.

A revision of an existing statute is presumed not to have changed meaning, even if there be phraseological alterations, unless an intention to change clearly appears from language of revised statute when considered in connection with subject-matter of act and its legislative history. *Champ v. B.*, 197M49, 266NW94. See Dun. Dig. 8957.

Where meaning of revised statute is free from ambiguity, prior law cannot be resorted to for purpose of creating ambiguity. *Id.* See Dun. Dig. 8961.

Fact that validity of city ordinance has not been raised on many appeals in other cases does not prevent raising of that issue in a particular case, but such fact may be taken into consideration in determining validity. *State v. Davis*, 197M381, 267NW210. See Dun. Dig. 1579.

Power of court to declare a law unconstitutional is to be exercised only when absolutely necessary in particular case, and then with great caution. *Muller v. T.*, 197M608, 268NW204. See Dun. Dig. 8929, 8930, 8931.

Every law is presumed constitutional in the first instance. An act will not be declared unconstitutional unless its invalidity clearly appears. *Id.*

Court is bound by construction placed upon statute of another state by supreme court of that state. *Thorsness v. W.*, 198M270, 269NW637. See Dun. Dig. 8994.

Statutes are to be so construed as to suppress mischief and advance remedy, to promote rather than defeat

legislative purpose. *State v. Bean*, 199M16, 270NW918. See Dun. Dig. 8962.

Construction of a statute which will nullify it, in whole or in part, is to be avoided if reasonably possible. *Tomasko v. C.*, 200M69, 273NW628. See Dun. Dig. 8950(63).

Courts will give full effect to legislative intent to change common law fundamentals, but the intention must be at least reasonably clear. *Kemerer v. S.*, 201M239, 276NW228. See Dun. Dig. 8958, 8967.

It is duty of court so to construe statutory enactments as to give effect to obvious legislative intent. *McSherry v. C.*, 202M102, 277NW541. See Dun. Dig. 8937, 8937a, 8940, 8951.

Re-enactment of a statute after it has been construed by courts adopts such construction as part of statute. *First Minneapolis Trust Co.*, 202M187, 277NW899. See Dun. Dig. 8936b.

Court does not pass on constitutionality of a statute not challenged upon that ground. *Williams v. M.*, 202M402, 278NW585. See Dun. Dig. 8930a.

Constitutionality of a statute or ordinance will be determined only when absolutely necessary in order to determine merits of case. *State v. Kenny Boiler & Mfg. Co.*, 202M605, 279NW407. See Dun. Dig. 8930a.

The presumption is that every law is constitutional and that lawmakers have kept within constitutional limits, and that they were possessed of full information concerning matters in respect of which legislation relates. *Id.* See Dun. Dig. 8929.

It is presumed that legislative body investigated and found conditions such that legislation which it enacted was appropriate. *Sverkerson v. C.*, 204M388, 283NW555. See Dun. Dig. 1605.

There is a presumption in favor of constitutionality of a city ordinance. *Id.* See Dun. Dig. 8765.

Judicial interpretation cannot operate until law making department of state has spoken intelligibly. *State v. Probate Court*, 287NW297. See Dun. Dig. 8930.

An imperfectly drawn statute is valid if it contains a competent and official expression of legislative will. *Id.* See Dun. Dig. 8931.

2. Who may question validity.

A litigant may be heard to question the constitutionality of a statute only when it is about to be applied to his disadvantage. 181M427, 232NW737. See Dun. Dig. 8935(79).

Public officials who have no personal pecuniary interest in the matter involved will not be permitted to raise the question of the constitutionality of a statute to avoid the performance of a ministerial duty which it clearly imposes upon them. 181M427, 232NW737. See Dun. Dig. 8935(78).

One who is not a member of a class excluded from a statute, and whose rights are not affected or prejudiced thereby, may not attack statute upon ground that exclusion is unconstitutional. *Mesaba Loan Co. v. S.*, 204M589, 282NW823. See Dun. Dig. 8935.

3. Repeal.

See notes under §10929.

Where two inconsistent statutes are enacted at same session of Legislature, first must give way to last as latest expression of lawmaking power. *State v. Schmelpfenig*, 192M55, 255NW258. See Dun. Dig. 8927.

Before it can be said that a later act is intended as a substitute for earlier, there must be unmistakable intent manifested on part of legislature to make new act a substitute for old and to contain all law on subject. *State v. Sobelman*, 199M232, 271NW484. See Dun. Dig. 8926(15).

In absence of declaration of other legislative intent, where statute amends former statute by re-enacting its terms with supplementary provisions, such act is not a repeal of previous act, but amended statute is merged in amending statute and the repeal of latter does not revive first statute. *State v. Elmquist*, 201M403, 276NW735. See Dun. Dig. 8923.

A law is not repealed by a later enactment if provisions of two laws are not irreconcilable or necessarily inconsistent. *Licha v. N.*, 201M427, 276NW813. See Dun. Dig. 8927.

Where two acts are not in expressed terms repugnant, but later act covers whole subject matter of earlier, not purporting to amend it, and plainly shows that it was intended as a substitute for the earlier, it will operate as a repeal thereof, though all provisions of two may not be repugnant, but there must be unmistakable intent manifested to make new act a substitute for old act. *Lind v. O.*, 204M30, 282NW661. See Dun. Dig. 8926.

Implied repeals are no more favored in charter amendments than in statutory amendments. *Tamte v. E.*, 285NW720. See Dun. Dig. 8927.

Rule of construction that an amendatory act providing that amended act shall read as follows and then setting forth amendment repeals all of amended act not re-enacted is no obstacle to application of rule that erroneous references in amendatory act identifying amended statute may be corrected or eliminated by construction to conform to legislative intent. *Bull v. K.*, 286NW311. See Dun. Dig. 8928.

Upon repeal of a special law, general law which had been superseded by temporary special legislation becomes self-operating. *Op. Atty. Gen.* (3390-5), Aug. 24, 1937.

10933. Particular words and phrases.

6.

Act to establish October 12th as Columbus Day. Laws 1931, c. 175, ante, §2883-2.
Act to establish October 9' as Leif Erikson Day. Laws 1931, c. 120, ante, §2883-1.

14. Published and posted notices.—Unless otherwise specially provided, the words "Published notice," when used in reference to the giving of notice in any proceeding or the serving of any summons, order or process in judicial proceedings, shall mean the publication in full of the notice or other paper referred to, in the regular issues of a qualified newspaper, once in each week, and at uniform intervals, for the number of weeks specified. Provided, however, that when one of the regular publication days for such notice, summons, order or process shall fall upon Thanksgiving Day or upon any legal holiday then and in that case it shall be a compliance with the law to have said notice, summons, order or process published either the day before or the day after Thanksgiving Day or such legal holiday. And a "qualified newspaper" shall be one published in the county wherein the action or proceeding is pending or in which the thing to which such notice relates is to occur or be done, and conforming to the requirements of §10935; or, if there be none in such county, then in an adjoining county. The term "posted notice," when similarly used, shall mean the posting, at the beginning of the prescribed period of notice, of a copy of the notice or document referred to, in a manner likely to attract attention, in each of three of the most public places in the town, city, district or county to which the subject matter of the notice relates, or in which the thing of which notice is given is to occur or be performed; provided, however, that in any town in which there is located within its geographical limits a city or village, one or more such notices may be posted in such city or village. (As amended Apr. 16, 1931, c. 181, §1.)

(2).

The word "town" contained in par. 2 of this section is not broad enough to authorize the treasurer of a village to take steps relative to depositories of village funds as provided for in Laws 1931, c. 216, secs. 1 to 4. Op. Atty. Gen., Jan. 24, 1933.

(4).

Each letter or combination of letters representing an abbreviation of a word should be counted as one word in determining what constitutes a folio. Op. Atty. Gen. (373b-10), Jan. 4, 1937.

(6).

Farmers' Implement Co. v. Sandberg, 132Minn389, 157 NW642, holding that the service of summons on a legal holiday confers no jurisdiction on the court, followed. Chapman v. F., 184M318, 238NW637. See Dun. Dig. 4191 (82).

Public business transacted on a legal holiday is legal in case of necessity, existence of which will be presumed in absence of a showing to contrary. Ingelson v. O., 199 M422, 272NW270. See Dun. Dig. 3433, 3436, 9064.

A notice of appeal from probate court to district court is not "process," and service on election day is not prohibited. Dahmen's Estate, 200M55, 273NW364. See Dun. Dig. 7797.

State legislature may legally transact business on Good Friday only if it brings itself within the exception of this section. Op. Atty. Gen., Apr. 12, 1933.

Legislature may legally transact business on Good Friday only in cases of necessity. Op. Atty. Gen., Apr. 12, 1933.

Depositors' meeting should not be called on Good Friday. Id.

Proceedings to vacate highway had upon Nov. 11, were valid. Op. Atty. Gen., May 3, 1933.

Board of basic science may conduct examination on New Year's day, a legal holiday. Op. Atty. Gen. (303b), Oct. 5, 1934.

When last day of filing as a candidate at primary falls on a legal holiday, last day for filing affidavits of candidacy is preceding secular day. Op. Atty. Gen. (911a-1), Jan. 27, 1937.

A deed to the state executed and acknowledged on a legal holiday is valid and entitled to record. Op. Atty. Gen. (131c), Apr. 7, 1937.

Where memorial day falls on Sunday, custom of observing following day as memorial day does not warrant treasurer in accepting payment of first half of taxes without penalty on June 1st. Op. Atty. Gen. (276f), May 26, 1937.

Primary election should not be held on Washington's birthday. Op. Atty. Gen. (64), Jan. 11, 1938.

Public business may be transacted on Monday when legal holiday falls on Sunday. Op. Atty. Gen. (276c), Jan. 5, 1939.

(8).

Word "issue" must be given meaning of lineal descendants as defined in this section, but such definition relates to descent of estates of intestates and does not pertain to the interpretation of wills or deeds of trust. Thompson's Estate, 202M648, 279NW574. See Dun. Dig. 1027a.

(11).

A corporation may be owner of an exclusive liquor store. Op. Atty. Gen. (218g-13), May 22, 1934.

Word "person" in statute relating to embalming and licensing does not include corporation. Op. Atty. Gen. (950), Feb. 23, 1937.

(12).

Section 1266 governs in computation of population in cities for purpose of issuing intoxicating liquor licenses. Op. Atty. Gen., Jan. 30, 1934.

Though ordinarily inmates of training schools are not to be counted as residents of county, county board should accept official returns of federal or state census as basis for determining whether or not a redistricting is required, even though inmates of such schools were counted as residents. Op. Atty. Gen. (798d), Oct. 15, 1935.

Population of village for license purposes is that of last state or federal census. Op. Atty. Gen. (218g-11), June 7, 1937.

(14).

There was no ratification of sale made without proper notice by request for additional time to make redemption and consent thereto. State Bank of Loretto v. L., 198M 222, 269NW399. See Dun. Dig. 1463.

Foreclosure of a chattel mortgage by notice requires strict adherence to statutory requirements. Id. See Dun. Dig. 1460(43).

When posting was made in Minneapolis only and none in town where mortgaged property was located and had its situs, sale was invalid. Id.

Under section 31 of the Brainerd City Charter, requiring clerk to advertise in official newspaper of the city for one week for sealed proposals, one publication of the notice in the newspaper at least one week prior to the opening of the bids is sufficient. Op. Atty. Gen., June 24, 1931.

Under a statute providing that "two weeks' published notice" shall be given that bids will be received and opened, bids could be opened one week from the date of the last publication, excluding the date of publication, and including the date of opening the bid. Op. Atty. Gen., June 30, 1931.

Notices published on a legal holiday are valid. Op. Atty. Gen. (276d), June 8, 1935.

Advertisement on a date which falls on a legal holiday is valid, but one falling on Sunday is not valid. Op. Atty. Gen. (276d), Mar. 4, 1936.

In absence of provision to contrary, notices, etc., published by department of administration and finance must be published in legal newspaper. Op. Atty. Gen. (277a-10), Feb. 25, 1937.

Under statute requiring three weeks' published notice of bids, time of opening bids should be not less than one week from date of last publication. Op. Atty. Gen. (125a-17), May 7, 1937.

(17).

180M241, 230NW672.

(19).

The word "year" in §3259, forbidding more than twelve boxing exhibitions during any one year, means calendar year commencing January 1st. Op. Atty. Gen., Feb. 8, 1932.

(21).

179M349, 229NW312.
In computing the three-day period in which a bill is to be returned by the Governor in order to effect a veto thereof under Const. Art. 4, §11, Sunday, but not a holiday, is to be excluded. 172M162, 216NW200.

Liability of the bank stockholder making a transfer on November 23rd, 1925, continued to and included November 23rd, 1926. Bank of Dassel v. M., 183M127, 235NW914. See Dun. Dig. 803(11).

A cause of action alleging items of deposit received in an insolvent bank, the last one on March 7, 1924, is not barred as to such last item on March 7, 1930. The first day is excluded and the last included in the computation of time. Olesen v. R., 184M624, 238NW12. See Dun. Dig. 9625(98).

Where twentieth day after suit is commenced falls on Sunday or legal holiday, demand for change of venue under §9215 may be made on following Monday. State v. Mills, 187M287, 245NW431. See Dun. Dig. 9625, 10123.

First day was excluded and last day included in determining time of cancellation of workman's compensation insurance policy. Olson v. M., 188M307, 247NW8. See Dun. Dig. 9625.

Where an act is required to be done a specified number of days before an event, required number of days is to be computed by excluding day on which act is done and including day on which event is to occur. State v. Schmelpenig, 192M55, 255NW258. See Dun. Dig. 9625.

Publication of summons, order or process is not illegal because first publication falls on a holiday. Op. Atty. Gen., Mar. 14, 1929.

House of Representatives could not legally adjourn in the afternoon of Feb. 11, 1931, until the forenoon of Feb. 16, 1931, without the consent of the Senate, it being immaterial that February 12th is holiday. Op. Atty. Gen., Feb. 10, 1931.

In computing the five day period between the making of application for marriage license and the issuance of the license, the day on which the application is made is to be excluded and the day the license is issued is to be included. Op. Atty. Gen., Apr. 29, 1931.

Fractions of days may not be considered in determining five days after which a marriage license may be issued. Op. Atty. Gen., May 9, 1931.

General rule prescribed by this subdivision does not apply to §§386 and 387, relating to registration of voters. Op. Atty. Gen., Feb. 23, 1933.

In computing 60 days within which application may be made under §254-9, holidays are to be counted except when last day falls on a holiday, when application may be made on next succeeding business day. Op. Atty. Gen. (276B), March 3, 1939.

(22).

The word "towns" in Soldier's Preference Act includes villages. 173M485, 217NW681.

The word "village" in the proviso in Laws 1929, c. 179, does not include a "town." Op. Atty. Gen., June 6, 1929.

Village assessor should be paid same compensation as town assessor. Op. Atty. Gen., Dec. 22, 1933.

Compensation of village treasurer, under the general law, is governed by laws relating to compensation of town treasurer. Op. Atty. Gen. (456f-2), Oct. 18, 1935.

(24).

Village treasurer unable to write may sign village bonds by making his mark, or his name may be written by some person at his request and in his presence. Op. Atty. Gen. (456a), Nov. 24, 1937.

Signing of checks by deputy or clerk at direction of county treasurer is lawful, but it is doubtful that a rubber stamp signature, unless initialed or otherwise identified by handwriting, would constitute a compliance with statute. Op. Atty. Gen. (450a-16), April 17, 1939.

10934. Newspapers legalized.

A legal newspaper may refuse to publish legal notices. Op. Atty. Gen. (314h-6), Aug. 27, 1936.

Status of newspaper is not affected by failure of publication for one week. Op. Atty. Gen. (214b-6), Sept. 18, 1936.

Newspaper may completely suspend publication for period of one week without affecting its status. Op. Atty. Gen. (314b-6), July 27, 1937.

A daily paper may change to weekly or semi-weekly paper without affecting its status, but it is doubtful whether a notice which was being published on one of days that ceased to be a day of publication after change can be published on one of the other days. Id.

10934-2. Certain publications validated.—All newspaper publications of notices, required by law to be published in legal newspapers, which have been published between dates of June 27, 1927 and June 27, 1928 in a daily newspaper which conforms in all respects to the statute defining legal newspapers with the exception that the newspaper had not been published for the requisite length of time, and where said daily newspaper attempted to purchase a weekly newspaper and combine and continue the existing legal weekly paper with the daily newspaper but in fact failed to do so because of a failure to adopt certain characteristics of the existing legal newspaper, are hereby legalized and declared to be valid and sufficient for all purposes. (Act Mar. 11, 1929, c. 72, §1.)

10934-3. The provisions of this act shall not affect any action or proceeding now pending in any courts in this state. (Act Mar. 11, 1929, c. 72, §2.)

10934-4. Certain newspapers qualified and publications validated.—Any daily newspaper which was issued only five days each week during the weeks ending December 31, 1932, and January 7, 1933, respectively, and which was not issued on December 26, 1932, or January 2, 1933, shall be qualified as a medium of official and legal publications under the laws of this State, notwithstanding any failure to issue the same at least six days during each of said weeks, or failure to issue the same on December 26, 1932, or January 2, 1933, provided such daily newspaper be otherwise qualified as a medium of official and legal publications under Section 10935 Mason's Minnesota Statutes for 1927; and any official and/or legal publication or publications published in any such newspaper on or after December 26, 1932, and prior to the passage of this Act are hereby legalized and validated

and given the same legal force and effect as if published in a daily newspaper, issued daily at least six days during each of said weeks. (Act Jan. 10, 1933, c. 2.)

10934-5. Certain newspapers legalized.—No newspaper in this state, which conforms in all respects to the statutes defining a legal newspaper, except that it was not heretofore published for one week at some time since it became a legal newspaper, shall be deprived of its standing as such legal newspaper by reason of such omission; but such newspaper shall be deemed to be a legal newspaper notwithstanding such omission of its publication for one week. (Act Jan. 11, 1933, c. 4.)

10934-6. Legal publications in certain newspapers validated.—No daily newspaper in this state which conforms in all respects to the statutes defining a legal newspaper, except that it was heretofore published and issued only two days during one calendar week at some time since it became a legal newspaper, shall be deprived of its standing as such newspaper by reason of the failure to publish and issue the same at least six days during said week; but such newspaper shall be deemed to be a legal newspaper notwithstanding such failure; and any official and/or legal publication or publications published in any such newspaper subsequent to the calendar week in which such failure occurred and prior to the passage of this act are hereby legalized and validated. (Mar. 23, 1937, c. 92, §1.)

10934-7. Same.—No weekly newspaper in this state which conforms in all respects to the statutes defining a legal newspaper, except that it was not heretofore published and issued for one week at some time since it became a legal newspaper, shall be deprived of its standing as such legal newspaper by reason of such omission; but such newspaper shall be deemed to be a legal newspaper notwithstanding such omission of its publication and issuance for one week; and any official and/or legal publication or publications published in any such newspaper subsequent to the week during which such omission occurred and prior to the passage of this act are hereby legalized and validated. (Mar. 23, 1937, c. 92, §2.)

10935. Qualifications of legal newspaper. [Repealed.]

Repealed Apr. 1, 1939, c. 128, §2. Reenacted as §10935-1. Amended Apr. 4, 1933, c. 151, §1; Apr. 21, 1933, c. 373; Apr. 13, 1935, c. 166, §1 and July 15, 1937, Sp. Ses. c. 68, §1. Qualifications of official newspapers. Laws 1939, c. 128, §1.

The title of Act Apr. 21, 1933, cited, purports to amend only subdivision 4 of this section. The amendment of the other subdivisions of the section is probably unconstitutional. The title of the act reads: "An act amending Mason's Minnesota Statutes of 1927, section 10935, subdivision 4, relating to legal newspaper qualifications."

Sec. 2 of Act Apr. 4, 1933, cited, provides that the act shall take effect from its passage.

Sec. 2 of Act Apr. 13, 1935, cited, repeals Laws 1933, chapters 151 and 373.

Act July 15, 1937, cited amends only subdivision (4).

St. Paul Legal Ledger giving information affecting credit and other news of official proceedings, held to "contain local and general news, etc." Legal Ledger, Inc. v. H., 176M120, 222NW646.

Record found to sustain legality of Midway News as a qualified medium for official and legal publications, though type was set by another concern. North Central Pub. Co. v. C., 198M335, 269NW835. See Dun. Dig. 7064.

Newspaper publisher, having no mechanical equipment whatever, but letting it to job shop, does not publish legal newspaper. Op. Atty. Gen., July 21, 1932.

Laws 1933, c. 373, amending this section, operates as a curative act only, and does not permit legal newspapers complying with law at time of passage to consolidate their shops and have various papers issued from one shop. Op. Atty. Gen., Oct. 31, 1933.

If some of present work is done at place of publication and if newspaper office at that place is equipped with skilled workmen and necessary materials for preparing and printing the paper, balance of paper may be printed in the adjoining village. Op. Atty. Gen. (314b-19), Dec. 28, 1934.

County board proceedings cannot be published in a newspaper that is not legally qualified, such as one which has not been in circulation for a year. Op. Atty. Gen. (314b), Dec. 31, 1934.

Laws 1933, c. 373, is unconstitutional insofar as provisions thereof purport to amend subd. (1), (2), (3), of this section, and a newspaper is a legal paper providing it has qualified under requirements of this section for at least one year preceding passage of Laws 1935, c. 166. Op. Atty. Gen. (314b-3), May 17, 1935.

Provision for suspension of publication for not more than three months resulting from destruction of office by fire, applies to year during which newspaper is attempting to qualify as a legal newspaper. Op. Atty. Gen. (314b-6), Mar. 2, 1936.

In absence of provision to contrary, notices, etc., published by department of administration and finance must be published in legal newspaper. Op. Atty. Gen. (277a-10), Feb. 25, 1937.

Suspension of publication of a legal newspaper for a period of not more than three months resulting from destruction of office and equipment by fire or by elements or other unforeseen accident does not affect qualifications after resuming publication. Op. Atty. Gen. (314b-6), July 27, 1937.

Where office and equipment is destroyed by elements, paper would not be a legal newspaper pending reconstruction of plant if paper was printed outside county, but would be a legal paper during period of suspension if paper was printed in city and county. Id.

Neither change of ownership nor change of place of publication from one place to another within same county would deprive a paper of its standing. Op. Atty. Gen. (314b-17), Dec. 22, 1937.

A newspaper maintaining an office in village but having no printing machinery or equipment and having its paper printed in a distant village is not a legal newspaper. Op. Atty. Gen. (314B-11), March 7, 1939.

Affidavit of publication held to comply with section as amended by Laws 1939, c. 128. Op. Atty. Gen. (314B-7), June 8, 1939.

(1).

A legal newspaper need not be of any specified size, but it must be equivalent in space to at least four pages with five columns to the page, each seventeen and three-fourths inches long. Op. Atty. Gen., Dec. 3, 1931.

(2).

If all press work was done outside of known office of publication of legal newspaper, newspaper would be disqualified. Op. Atty. Gen. (314b-17), Mar. 31, 1938.

Where two weekly newspapers in same city buy a press to be used jointly and locate it in plant of one of them, both papers continue to qualify. Op. Atty. Gen. (314b-11), Apr. 19, 1938.

(3).

On change from weekly to semi-weekly, new edition is not legal newspaper until it has been published for at least one year. Op. Atty. Gen., Dec. 11, 1933.

Printer's affidavit, Form 67 in Appendix 1 (Mason's 1934 Supp.), should be modified so as to conform with requirements as to qualification of a legal newspaper as stated in Laws 1933, c. 373. Op. Atty. Gen., Feb. 1, 1934.

Where proof is not furnished county auditor within the required 10 days, the legal standing of the newspaper is forfeited, and is not reinstated by furnishing such proof 25 days after notice. Op. Atty. Gen. (314b-5), June 28, 1934.

"Person interested" is one having a direct and pecuniary interest in certain paper and in cause and consequences of an official and legal publication contained in newspaper. Op. Atty. Gen. (277a-10), Sept. 12, 1938.

10935-1. Qualifications for legal newspapers.—A newspaper in order to be qualified as a medium of official and legal publications, shall:

(1) Be printed in the English language from its known office of publication within the city, village or town from which it purports to be issued and in newspaper format and in column and sheet form equivalent in space to at least 450 running inches of single column, two inches wide.

(2) Be issued at least once each week, and if a daily at least five days each week, from a known office, established in such place for such publication and employing skilled workmen and the necessary material for preparing and printing the same; except in any week in which a legal holiday or Thanksgiving day is included, not more than four issues of a daily paper shall be necessary, which provision shall also apply when the legal holiday falls upon Sunday. Provided that the press work on that part of the newspaper devoted to local news of interest to the community which it purports to serve, shall be done in its known office of publication.

(3) 25 per cent of its news columns devoted to local news of interest to the community which it purports to serve. It may also contain general news,

comment and miscellany, and must not wholly duplicate any other publication, and be not entirely made up of patents, plate matter and advertisements.

(4) Be circulated in and near its place of publication to the extent of at least 240 copies regularly delivered to paying subscribers and have entry as second class matter in its local post-office.

(5) Have complied with all of the foregoing conditions for at least one year last past.

Provided, however, that any publication which shall have been a duly qualified medium of legal publication or which shall have filed with the proper county auditor an affidavit purporting to set forth its qualifications as a legal publication, under the laws of this state, prior to the passage of this act shall be a legal newspaper and a duly qualified medium of official and legal publication, so long as said publication complies with sub-section 4, hereof.

Suspension of publication for a period of not more than three months within any year, resulting from the destruction of its office by the elements or unforeseen accident to the equipment thereof shall not affect the qualification of such newspaper; nor shall the consolidation of one newspaper with another published in the same county, nor any change in the name or ownership thereof, disqualify it or invalidate any publication continuously made therein, before and after the change, and any change of the day of publication, the frequency of publication, or the change of office or place of publication from one place to another within the same county shall not deprive any such publication of its standing as a legal newspaper. Any person interested in the legality of any publication may request the auditor for the county in which such publication is published to furnish proof of the legal standing of the publication in which such legal publication is contained. The county auditor shall then demand of the publisher of such publication to furnish written proof of its qualifications together with a list of the two hundred forty paying subscribers, which shall be then filed by said auditor in his office as a public record. Failure of such publisher to comply with this demand within ten days after receipt of such request shall forfeit the legal standing of such publication, and such publication shall not be a medium of legal publication until such written proof and list shall have been so furnished.

All legal notices shall be printed in the English language. (Act Apr. 1, 1939, c. 128, §1.)

10937. Published notice.

Op. Atty. Gen., Mar. 14, 1929; note under §10933. Advertisement on a date which falls on a legal holiday is valid, but one falling on Sunday is not valid. Op. Atty. Gen. (276d), Mar. 4, 1936.

10939-1. Fees for publication of legal notices.

Publication of wheat production and acreage statements of members of association of county, made in compliance with regulations of agricultural adjustment administration, is not a legal publication as respects rates. Op. Atty. Gen., Nov. 8, 1933.

Publisher was not entitled to extra compensation for printing tabular matter. Op. Atty. Gen., Nov. 9, 1933.

This section does not take precedence over Laws 1895, c. 8, §146. Op. Atty. Gen., Dec. 13, 1933.

Where personal property tax list is given for publication to a newspaper without any agreement as to charges, the rate fixed by law as the limit of compensation becomes a part of the contract. Op. Atty. Gen. (277a-11), Feb. 25, 1936.

An unorganized school district is required to print financial statement by §2855, but is not controlled by any provision as to independent school districts, and charge is limited to general provision for legal notices under §10939-1, which would be 90 cents per folio. Op. Atty. Gen. (277e), August 17, 1939.

10940. Duties of State Printer—Preparation of forms.—The state expert printer shall biennially issue a pamphlet containing a description and facsimile copy, and style of composition, as near as can be, of all notices required by law to be published by public officials in a newspaper in this state, for distribution; such forms of official notices to be prepared by the attorney general before being issued for distribution by the state expert printer, and such forms when so

prepared and so issued shall become a guide for public officials in the publication of such official and legal notices in newspapers. (As amended Mar. 19, 1937, c. 78, §1.)

10950-4. Mason's Minnesota Statutes to be prima facie evidence.—Mason's Minnesota Statutes of 1927 shall be prima facie evidence of the statutes therein contained, in all the courts of this state, without further proof or authentication. (Act Feb. 1, 1929, c. 8.)

10950-5. 1931 supplement to Mason's Statutes to be prima facie evidence of the statutes therein contained.—The 1931 Supplement to Mason's Minnesota Statutes of 1927 shall be prima facie evidence of the statutes therein contained, in all the courts of this state, without further proof of authentication. (Act Apr. 15, 1933, c. 254.)

10950-6. 1934 Supplement to Mason's Minnesota Statutes of 1927 to be prima facie evidence of the statutes therein contained. The 1934 Supplement to Mason's Minnesota Statutes of 1927 shall be prima facie evidence of the Statutes therein contained. (Act Feb. 27, 1935, c. 24.)

10950-7. 1936 Supplement to Mason's Minnesota Statutes of 1927 to be prima facie evidence of the statutes therein contained.—The 1936 Supplement to Mason's Minnesota Statutes of 1927 shall be prima facie evidence of the statutes therein contained. (Act Feb. 13, 1937, c. 24.)

10950-8. 1938 Supplement to Mason's Minnesota Statutes of 1927 to be prima facie evidence of the statutes therein contained.—The 1938 Supplement to Mason's Minnesota Statutes of 1927 shall be prima facie evidence of the statutes therein contained. (Act Jan. 30, 1939, c. 4.)

CHAPTER 108

Express Repeal of Existing Laws

10962. Session Laws of 1875.

Repeal of Laws 1875, c. 139, by §10962, did not affect villages, such as Heron Lake, operating thereunder, and such laws govern repairing of sidewalks and paving of streets. Op. Atty. Gen. (484e-4), Apr. 15, 1936.

10963. Session Laws of 1876.

Repeal of ch. 23 is modified by the provisions of §7429 herein. Op. Atty. Gen., May 3, 1930.

10967. Session Laws of 1881.

Repeal of Laws 1875, c. 139, by §10962, did not affect villages, such as Heron Lake, operating thereunder, and such laws govern repairing of sidewalks and paving of streets. Op. Atty. Gen. (484e-4), Apr. 15, 1936.

10970. Session Laws of 1885.

This repealer is modified as to villages organized and operating under the village code of 1885, by §1109 herein. Op. Atty. Gen., Jan. 16, 1930.

10975. Session Laws of 1895.

This repealer is modified as to villages organized and operating under the 1885 village code, by §1109 herein. Op. Atty. Gen., Jan. 16, 1930.

Laws 1895, c. 257, authorizing villages to purchase or rent fire apparatus was not repealed by this section. Op. Atty. Gen., Oct. 6, 1931.

10978. Session Laws of 1901.

This section repeals Law 1901, c. 252. Op. Atty. Gen., Apr. 27, 1933.