

Nineteen Hundred Thirty-One
Supplement

to

Mason's Minnesota Statutes

(1927 thru 1931)

Containing the text of the acts of the 1929 and 1931 Sessions of the
Legislature, both new and amendatory, and notes showing repeals,
together with annotations from the various courts, state
and federal, construing the constitution, statutes,
charters and court rules of Minnesota



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shall become and be a part of the state forests, subject to all the provisions of law relating thereto. (Act Apr. 21, 1931, c. 283, §1.)

UNITED STATES LANDS

§6528-1. State relinquishes swamp lands.—

The State of Minnesota hereby waives and relinquishes any and all right and claim that it may by virtue of the Act of Congress of March 12, 1860 (12 Statutes at Large 3) have in or to swamp and overflowed lands lying within the White Earth Indian Reservation in Minnesota which have heretofore been conveyed by the United States, by patent in trust or in fee, to any Indian whether of full blood or of mixed blood. (Act Apr. 18, 1929, c. 226, §1.)

§6528-2. Effective when.—This act shall take effect and be of force only when and after the United States shall by act of Congress have ratified and confirmed in the State of Minnesota and its grantees and assigns the title to all lands included within the following described patents issued by the United States to the State of Minnesota, to-wit:

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| Patent No. 1 | dated May | 14, 1877 |
| Patent No. 3 | dated August | 5, 1880 |
| Patent No. 4 | dated November | 20, 1880 |
| Patent No. 5 | dated April | 13, 1881 |

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| Patent No. 6 | dated March | 27, 1885 |
| Patent No. 7 | dated March | 10, 1888 |
| Patent No. 28 | dated September | 20, 1893 |
| Patent No. 41 | dated March | 15, 1895 |
| Patent No. 59 | dated April | 30, 1896 |
| Patent No. 65 | dated September | 15, 1896 |
| Patent No. 72 | dated January | 18, 1897 |
| Patent No. 73 | dated February | 11, 1897 |
| Patent No. 77 | dated May | 6, 1897 |
| Patent No. 82 | dated October | 20, 1897 |
| Patent No. 84 | dated January | 15, 1898 |
| Patent No. 92 | dated February | 21, 1899 |
| Patent No. 95 | dated March | 15, 1899 |
| Patent No. 106 | dated October | 23, 1899 |
| Patent No. 110 | dated April | 20, 1900 |
| Patent No. 126 | dated August | 26, 1901 |
| Patent No. 127 | dated August | 28, 1901 |
| Patent No. 139 | dated August | 17, 1903 |
| Patent No. 163 | dated October | 14, 1904 |
| Patent No. 167 | dated January | 12, 1905 |
| Patent No. 169 | dated March | 27, 1905 |
| Patent No. 170 | dated April | 8, 1905 |
| Patent No. 174 | dated October | 17, 1905 |
| Patent No. 176 | dated November | 23, 1905 |

and shall have dismissed with prejudice the suit involving said lands and their value and the proceeds from sales thereof now pending in the Supreme Court of the United States, and entitled United States versus State of Minnesota. (Act Apr. 18, 1929, c. 226, §2.)

CHAPTER 41

Eminent Domain

§6537. Right of eminent domain.

177M146, 225NW86.

Village of North St. Paul has authority to condemn rights of way for an alley or to condemn an easement for water and sewer pipes across private property. Op. Atty. Gen., May 26, 1931.

§6541. Petition and notice.

There was no authority and no public necessity for the condemnation of an easement for an electric power line through Jay Cooke State Park. 177M343, 225NW164.

§6546. Payment — Tender — Deposit in court.

Boundary dispute between claimants of land condemned. Fitzpatrick v. B., 223NW767.

The United States seeking to condemn lands for a public building, has no further interest in the condemnation proceedings after it pays the award to the clerk of the court. St. Paul v. Certain Lands, (CCA8), 48F(2d)805. See Dun. Dig. 3100.

Where an award is made to owner of land upon which mortgage is being foreclosed, the purchaser at the foreclosure sale is entitled to the award in the absence of redemption. Op. Atty. Gen., Apr. 2, 1931.

§6548. Accruing taxes.

Delinquent taxes on land are a first lien and should be paid first out of an award made in condemnation proceedings by the highway department. Op. Atty. Gen., Aug. 8, 1930.

Where damages are awarded in condemnation proceedings by highway department, and they are insufficient to cover taxes against the land, they should be distributed among the various funds the same as they would be if the taxes had been paid. Op. Atty. Gen., Aug. 8, 1930.

Where Government condemns property for post office, title does not pass until final judg-

ment and payment of the award, and county auditor has authority until that time to assess taxes against the property, even though under Mason's USCA, Title 40, §258, title relates back to the date of the filing of the commissioner's award. Op. Atty. Gen., Jan. 26, 1931.

Where City of St. Paul acquired by condemnation portions of property for widening of street and property owner gave City deed on December 26th, 1930, and award was ratified by City Council on December 30th, 1930, but proceedings of Council were not published in the official newspaper until January 3rd, 1931, on which date award was paid, taxes for 1930 spread by the auditor on December 24th, 1930, constituted a lien on the property and should be paid by the City. Op. Atty. Gen., April 25, 1931.

§6549. Appeal.

City intervening to recover special assessments, held not entitled to appeal from award. St. Paul v. Certain Lands, (CCA8), 48F(2d)805. See Dun. Dig. 3107.

§6550. Trial—Costs.

To the extent that traffic upon a trunk highway is beneficial to an abutting farm, as such, it is a benefit in common with the general public. 176M525, 223NW923.

Special benefits may be shown in the reduction of damages. 176M525, 223NW923.

Gross damages are first to be determined and then award is to be apportioned as justice may require. 176M525, 223NW923.

Where such rule is ignored, and a different procedure is adopted without objection, in which the dissatisfied party has acquiesced, he cannot thereafter complain. 176M525, 223NW923.

§6551. Judgment—Possession.

One obtaining market value of property was not entitled to an additional award for expense

of removal from the premises. 176M389, 223 NW458.

§6552. Interest—Award, when payable—Dismissal.

48F(2d)183.

In condemnation proceedings the charter provisions, in force at the time the order of the city council confirming the award is adopted, governs the right to interest thereon. *L. Realty Co. v. C.*, 237NW192. See *Dun. Dig.* 3103.

§6557-4. Easement for snow fences.—

Whenever the right to establish a public road is acquired by the state or by any of its agencies or political subdivisions, there shall be included in the easement so acquired the power to erect and maintain temporary snow fences as required upon lands adjoining the highway part of which lands have been taken for road purposes. The right to erect and maintain such fences shall be considered in awarding damages and any award shall be conclusively presumed to include the damages, if any, caused by the right to erect and maintain such fences provided that if the state or agency or political subdivision thereof shall file with its petition or at any time before the question of damages is submitted to a jury a written disclaimer of its desire and intention to acquire a right to erect and maintain snow fences as to any particular tract of land involved, then no such right shall be acquired in such proceeding and no consideration given to such fences as an element of damage. (Act Apr. 26, 1929, c. 396, §1.)

§6578-1. Award of compensation and damage in condemnation proceedings.—Whenever an award of compensation and damages shall be confirmed by the city council of any city of the first class in the State of Minnesota, existing and governed under a charter adopted pursuant to Section 36, Article 4, of the State Constitution, in any proceeding for the taking of property under the power of eminent domain, and not appealed from, and whenever the same, when appealed from, shall not be set aside by the court, the same shall constitute a lawful and sufficient condemnation and appropriation to public use of the land and property and rights in property for which compensation or damages are so awarded, and the city council shall thereupon cause to be paid from the funds of such city, to the owner of such property, the amount awarded to each severally.

Before payment of such award, the owner of such property or the claimant of the award shall furnish an abstract of title showing himself entitled to all of the compensation and damage claimed. In case of neglect to furnish such abstract, or if there shall be any doubt as to who is entitled to such compensation or damage or any part of the same, the amount so awarded shall be by the city council appropriated and set apart in the city treasury for whoever shall show clear right to receive the same. The city council may in its discretion require of such claimant a bond with good and sufficient sureties, conditioned to indemnify and save the city harmless against all other claims for such compensation or damages, or for the property for which the same was awarded and all loss, costs or expenses on account of such claim, Provided,

that whenever the city attorney shall certify in writing to the city council that he is in doubt as to whom the said award shall be paid, said city council may order a warrant to be drawn for the same, payable to the clerk of the district court, and the city clerk shall deliver the same to said clerk of the court, and take his receipt for the same; which deposit with said clerk of the court shall have the same effect as if set aside in the city treasury, as hereinbefore provided, and in which case the parties entitled to the same shall establish their right to the same by a petition to the said District Court, setting up the facts entitling them thereto, and by proving the same to the satisfaction of the court, and when so established the court shall make an order directing to whom the same shall be paid.

Upon the payment of said award or appropriation or the setting apart of the money in the city treasury to pay the same as aforesaid, the city shall become vested with the title to the property taken and condemned absolutely for all purposes for which the city may ever have occasion to use the same, and may forthwith enter upon and use the same. Provided that whenever any such award shall be confirmed by the city council of any such city and an appeal shall be taken therefrom, the city council shall be and hereby is authorized and empowered, by resolution enacted by affirmative vote of a majority of all of its members elected, to appropriate and set aside in the treasury of the city, in a fund therein to be known as the "Condemnation and Award Fund," a sum of money equal in amount to such award providing for the retention thereof therein, during the pendency of the appeal, available at all times for the payment thereof upon demand to whosoever may be shown to have a clear right thereto, and further pledge the full faith and credit of the city for the payment of any increase of the award allowed upon the appeal; then in such case, regardless of the appeal, upon the enactment of such resolution by the city council and the setting apart of the amount of the award in the treasury of the city, the city shall be entitled to enter upon and take possession of the property condemned and to put such property to the use or uses for which such condemnation was made. (As amended Apr. 25, 1931, c. 396.)

This section is not violative of the 14th amendment, in that it does not afford a fair tribunal to a property owner. 32F(2d)748.

Fixing of amount of damages is a step in condemnation proceedings and is at most only quasi judicial. 177M146, 225NW86.

This section sufficiently protects the landowner against any taking of his property without compensation first paid or secured. 177M146, 225NW86.

Proceedings held to sufficiently show purpose for which land was taken and that it was taken for a public purpose. 177M146, 225NW86.

In street widening proceeding, land owner is entitled to damages at least to the extent of market value of the land taken in the condition and situation it then occupied, not an isolated tract, but as a part of the whole. Improvement of Third St., 225NW92.

Landowner cannot claim damages on theory that at some future time there may be a change of the grade of the street, his right to receive damages at any such time not being affected. Improvement of Third St., 225NW92.