

1934 Supplement  
To  
**Mason's Minnesota Statutes**  
1927

(1927 to 1934)  
(Superseding Mason's 1931 Supplement)

Containing the text of the acts of the 1929, 1931, 1933 and 1933-34 Special Sessions of the Legislature, both new and amendatory, and notes showing repeals, together with annotations from the various courts, state, federal, and the opinions of the Attorney General, construing the constitution, statutes, charters and court rules of Minnesota



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## CHAPTER 28A

## Department of Weights and Measures

**5276. Duties and powers of department.**

175M276, 221NW6.

**INSPECTION OF METERS AND DEVICES FOR MEASURING OF ELECTRICITY, GAS AND WATER**

**5285-1. Inspection and test by railroad and warehouse commission—Petition for by residents of municipalities—Fees—Sealing and labeling devices.**—The railroad and warehouse commission shall have power to inspect and test all meters, mechanical devices and measures of every kind, and tools, appliances and accessories connected therewith, used, employed, kept, sold or offered or exposed for sale within this state for the purpose of measuring the amount, quantity or extent of electricity, gas or water furnished, sold or distributed to the public by any person, association, corporation or municipality except cities of the first class having, or which may hereafter have meter inspection departments. Upon petition of at least 10 consumers of electricity, gas or water within the territorial limits of any municipality and upon the deposit with the clerk of such municipality by each of such consumers of a fee of 25 cents for each such meter, mechanical device and measure installed or used upon the premises of each such petitioning consumer, the governing body of such municipality may request the commission to make an inspection and test of all such meters, mechanical devices and measures upon the premises of such petitioning consumers. Thereupon the commission, within a reasonable time after the receipt by it of such request shall proceed

to make an inspection and test of all such meters, mechanical devices and measures upon the premises of all such petitioning consumers and upon the premises of all other consumers within such municipality who, at the time of such inspection and test, shall have deposited with the clerk of such municipality said fee of 25 cents for each such meter, mechanical device and measure upon the premises of such consumers. All such fees collected by the clerk of any such municipality shall be remitted by such municipality to the commission within 30 days of the completion of such inspection and test, and deposited to the credit of the Weights and Measures fund. All such meters, mechanical devices and measures found, upon inspection, to be correct and accurate, shall be sealed with proper devices to be approved by the commission. The commission, or any of its employes, shall condemn, seize and destroy all incorrect and inaccurate meters, mechanical devices and measures which, in the judgment of the commission, cannot be satisfactorily repaired; and such as are incorrect and inaccurate and yet may be repaired, shall be marked as "Condemned for Repair," in the manner to be prescribed by the commission. The owners of such meters, mechanical devices and measures which have been so "Condemned for Repair," shall have the same repaired and corrected within 30 days; and such meters, mechanical devices and measures shall not be disposed of without the consent of the commission. In the general performance of its duty the commission, or any of its employes, may enter or go into or upon any premises, building, stand or place at all reasonable times. ('27, c. 291, §1 [Eff. July 1, 1927, by §3]; Mar. 27, 1931, c. 98.)

## CHAPTER 28A-1

## Telephone Companies

**5289. Rates to be fair and reasonable.**

Co-operative farm line telephone companies come under jurisdiction of commission as provided in this section. Op. Atty. Gen., Mar. 2, 1933.

Issue of confiscation as to telephone rates must be submitted to a judicial tribunal for determination upon its own independent judgment as to both law and facts. *Western Buse Telephone Co. v. N.*, 248NW220.

In determining rates, rural subscribers are not entitled to have considered profits made from advertisement in telephone directories. *Id.*

**5290. Schedule of rates, etc.**

Interstate business of telegraph and telephone companies comes under the federal law regulating commerce (Mason's U. S. Code. Title 49, Chap. 1.). 173M424, 217NW386.

**5291. Commission to fix reasonable rates.**

*Western Buse Telephone Co. v. N.*, 248NW220; note under §5296.

**5295. Connections between telephone companies not discontinued.**

In determining whether one is guilty of an offense under §5310 in severing the connection between a company's exchange and the rural telephone company, the fact that the connection was made under private arrangements and not pursuant to an order of the Railroad and Warehouse Commission would be immaterial. Op. Atty. Gen., April 7, 1931.

A nonstockholder served by co-operative farm line telephone company has no enforceable right where majority of stockholders disconnect line from exchanges of other companies. Op. Atty. Gen., Mar. 2, 1933.

**5296. Telephone companies required to permit physical connection.**

Right to compel physical connection between telephone companies rests entirely in statutory law. *Western Buse Telephone Co. v. N.*, 248NW220.

Any rate for switching services between telephone companies is confiscatory if insufficient to constitute reasonable return on value of property used and services required. *Id.*

A sound method of apportionment of property jointly used in switching services is to base apportionment upon use which includes volume of traffic. *Id.*

Commission may disregard its own rules, which provide a method of determining cost of service stations' switching, when they are found inadequate or obsolete. *Id.*

Value of use is not shown by gross earnings. *Id.* Neither joint property nor joint traffic expense can be apportioned on the per circuit basis. *Id.*

Testimony by competent valuation experts who have recently examined property and made estimates is preferable to mere calculations based on averages and assumed probabilities based on official reports. *Id.*

First step in arriving at value of telephone plant, or any public utility, is to ascertain its reproduction cost new, less depreciation. *Id.*

Depreciation is that diminution in value of property which takes place in physical thing and is ascertained by physical inspection. *Id.*

Depreciation which has been overcome by repairs and replacements is not considered. *Id.*

In fixing rate, company is entitled to any increase in value of property since it was acquired, but must stand loss of any shrinkage in value. *Id.*

Profits of the past cannot be used to sustain confiscatory rates for future. *Id.*

Rural companies receiving switching services are not entitled to credit for use of their lines and facilities by local exchange. *Id.*

Fact that company owning local exchange also owns toll lines occupying positions on its switchboard does not entitle rural subscribers to have toll lines share in expense incurred by exchange back of switchboard so as to, in any way, affect rates to be paid by them. *Id.*

**5302. Municipalities given right to operate telephone exchanges.**

Village council may sell or lease its telephone exchange without submission to electors. Op. Atty. Gen., Apr. 16, 1929.

**5306. Companies given right to purchase property of other companies with consent of commission.**

Section applies to sale of telephone exchange by a village. Op. Atty. Gen., Apr. 16, 1929.

Commission having consented to purchase of one telephone corporation by another had no power to thereafter revoke such order, and could take no official interest in proceedings before interstate commerce commission. Op. Atty. Gen., May 10, 1933.

**5308. Mode of procedure for appeals from decisions of commission.**

Issue of confiscation as to telephone rates must be submitted to a judicial tribunal for determination upon its own independent judgment as to both law and facts. *Western Buse Telephone Co. v. N.*, 248NW220.

Rate making is a legislative and not a judicial function. *Id.*

**5310. Violation a gross misdemeanor.**

In determining whether severing of connections would be a violation of §5295, the fact that the connection between the lines of the companies was made under a private arrangement would be immaterial. Op. Atty. Gen., Apr. 7, 1931.

In a prosecution for severing connections of lines of two companies in violation of §5295, complaint must allege sufficient facts to bring both companies within the definition of the term "telephone company" as set forth in §5287. Op. Atty. Gen., Apr. 7, 1931.

**5312. Town boards may construct telephone systems for fire protection.**

A township telephone company organized under State Fire Protection law has no authority to buy an interest in an adjoining exchange without a vote of the township voters. Op. Atty. Gen., Aug. 6, 1931.

**5314. Tax levy for construction.**

Where levy for one year is insufficient to construct telephone system the levies of several years may be accumulated until the fund is sufficient for the purpose. Op. Atty. Gen., Apr. 24, 1930.

Town board has no authority to use the road and bridge fund to keep up the operating expenses of a township telephone company organized under State Fire Protection law. Op. Atty. Gen., Aug. 6, 1931.

**5318. Private owners may sell telephone lines to township—Railroad and Warehouse Commission to fix value.**—When, under the provisions of this act, a township telephone system shall be established in any township wherein any of the inhabitants of such town are already provided with telephone service furnished by any other telephone company, person or persons, such township shall, when so requested by said telephone company, person or persons, acquire from said telephone company all telephone equipment used by said telephone company, person or persons, in furnishing telephone service to the inhabitants of such township exclusively. For the purpose of determining the purchase price of such equipment application shall be made to the state railroad and warehouse commission, whose duty it shall be thereupon to determine the just compensation which the owner of such telephone equipment is entitled to receive therefor, from the township. Before deciding upon such compensation, said commission shall at a public meeting which may be adjourned from time to time hear all interested parties on the question involved. The commission shall by order fix the com-

penation and furnish a copy of its order to the township, and to the telephone company, person or persons concerned. An appeal may be taken to the district court of the county wherein such township is situated from that part of the order fixing the compensation to be paid, within thirty days, by either party, which appeal shall be tried the same as other appeals hereunder; if no such appeal is taken the order of the commission shall become final at the end of thirty days, and when appeal is taken the decision of the district court or of the supreme court, if taken there from the district court shall be final.

When, under the provisions of this act a township telephone system has been established in any township, and it has been determined by the board of supervisors of said township to be for the best interest of public service and all parties concerned, to sell and transfer said township telephone system to any telephone company, person or persons giving service organized for that purpose and qualified to purchase said system and operate the same, the said board or supervisors shall have authority to sell, transfer, and convey said township telephone system upon such reasonable price and terms as it may determine, provided, that there shall be presented to the board of supervisors by a petition signed by at least twenty-five per cent of the freeholders of said township asking the sale thereof, and, if such sale and agreed sale price be approved at an annual or special town meeting, it being stated in the notice of such annual and special meeting that the proposition will be considered thereat, by sixty-six per cent of the legal voters attending such meeting.

If any township telephone lines are sold under the provisions of this act, and the township has theretofore issued bonds for the construction thereof, and any part of said bonds are then outstanding and unpaid; the entire consideration received from the sale, or such part as may be necessary, shall be held and applied only for the payment and retirement of such bonds. ('21, c. 439, §7; Apr. 11, 1929, c. 150, §1.)

A town board is without power to give away an interest which it has purchased in an adjoining exchange. Op. Atty. Gen., Aug. 6, 1931.

**5319. Town boards to manage.**—The town board of supervisors of any such township is hereby vested with all necessary authority to manage, maintain and operate any township telephone system constructed under the provisions of this act, and, to that end, may, among other things, contract for the connection of such township lines with exchanges owned by others for switching, lease the system for a reasonable compensation, local exchange and toll connections, hire and discharge such employees as may be necessary to operate and maintain such township system, establish rules and regulations, and, subject to the approval of the railroad and warehouse commission establish and from time to time change rates and charges, covering the service furnished to the users. ('21, c. 439, §8; Apr. 11, 1929, c. 150, §2.)

Town board may cancel out and refuse to connect with another exchange and operate its telephone service by house to house calls without a central exchange connection. Op. Atty. Gen., Aug. 6, 1931.

Town board has no authority to use the road and bridge fund to keep up the operating expenses of a township telephone company organized under State Fire Protection law. Op. Atty. Gen., Aug. 6, 1931.

## CHAPTER 28B

Department of Banking—Division of Banking in  
Department of Commerce**5323. Powers and duties of superintendent.**

179M217, 228NW926.

Duluth Morris Plan Company comes within provisions of section and gives commissioner of banks power and duty to safeguard rights of those dealing with it. Op. Atty. Gen., Jan. 19, 1933.

Whether Duluth Morris Plan Company may purchase of its own stock to hold for resale is a matter resting

within discretion of commissioner of banks. Op. Atty. Gen., Jan. 19, 1933.

**5324. Supervision over banks and other financial corporations.**

179M217, 228NW926.

Op. Atty. Gen., Jan. 19, 1933; note under §5323.