

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 46

Notaries Public

6938. Term—Bond—Oath.

Owner of property had no cause of action against a notary public for wrongful and false certificate of the execution of a bill of sale which was forged, the plaintiff not being divested of his title by the forged instrument. *Zitlow v. C.*, 175M615, 221NW244.

6940. Powers.

Where notary of one county takes acknowledgment in another county the venue of the certificate should be

entitled in the county where taken, and the recital and designation should be of the county for which he holds the commission. *Op. Atty. Gen.*, Feb. 10, 1933.

Notary public has power to take acknowledgment in county other than that in which he resided at time his commission was issued. *Op. Atty. Gen.*, July 24, 1933.

6946. Misconduct.

The violation of this section as well as section 10323 did not prevent a prosecution under that section. 171 M345, 214NW262.

CHAPTER 47

Resignations—Vacancies—Removals

6952. Resignations.

Offices of alderman and constable in city of Le Sueur are incompatible, and where one qualified for office of constable, he automatically vacated his office as alderman, and no resignation was necessary. *Op. Atty. Gen.*, May 9, 1933.

6953. Vacancies.

Failure of town treasurer to qualify creates a vacancy which may be filled by appointment. *Op. Atty. Gen.*, Mar. 21, 1929.

Whether village treasurer who has obtained a position in another state may still hold the office depends upon whether or not he has ceased to be an inhabitant of the village. *Op. Atty. Gen.*, Mar. 4, 1931.

Removal from office takes effect irrevocably upon conviction and imposition of sentence, and the officer is not restored upon the entry of a stay of execution of the taking of an appeal. *Op. Atty. Gen.*, Sept. 1, 1931.

With the possible exception of officers in certain villages operating under special laws, there is no provision for the removal of an elective village officer for misconduct except by securing his conviction of a felony or of an offense involving a violation of his official oath. *Op. Atty. Gen.*, Sept. 1, 1931.

Subd. 2.

Question whether resignation of president of council of the village of Buhl would become effective immediately without any action on the part of the board discussed. *Op. Atty. Gen.*, Mar. 3, 1932.

Subd. 5.

A public officer, on conviction of violation of the federal liquor laws, forfeits his office. *Op. Atty. Gen.*, Feb. 10, 1930.

A village recorder wilfully failing to perform the duties of his office may be convicted under §10028, and thus create a vacancy in his office under this section. *Op. Atty. Gen.*, Oct. 20, 1931.

One acting as assistant assessor in city of Eveleth was not officer and there was no vacation of office by reason of his conviction of crime. *Op. Atty. Gen.*, May 14, 1932.

There is no provision of law for removal of village trustee but his office becomes vacant upon conviction of an infamous crime or any offense involving a violation of his official oath. *Op. Atty. Gen.*, Apr. 6, 1933.

6954. Removal by governor.

The duties of the governor under this section are not mandatory, are not merely ministerial, and cannot be coerced by mandamus. 179M337, 229NW313.

Protracted absences of justice from his town might amount to nonfeasance in office. *Op. Atty. Gen.*, Mar. 19, 1929.

If municipal judge neglects his duties or corruptly violates his oath of office, his removal should be sought by petition to governor. *Op. Atty. Gen.*, June 26, 1933.

Governor cannot remove village constable. *Op. Atty. Gen.*, Aug. 31, 1933.

6955. Special commissioner to take testimony.

179M337, 229NW313.

6957. Appointment—How long to continue—Impeachment.

No lawful ballots can be cast for office of sheriff at a general election unless term of incumbent, whether elected or appointed, expires on first Monday of January following such election. *State v. Borgen*, 248NW 744.

The provisions of Laws 1929, c. 413, prevail over this section, and a person appointed to fill a vacancy in a village office holds until the expiration of the term, and not merely until the next municipal election. *Op. Atty. Gen.*, Nov. 13, 1931.

CHAPTER 48

Oaths and Acknowledgments

OATHS

6963. Oath of office.

A director of an independent school district who has taken an oath of office need not take a second oath when chosen as treasurer by the members of the school board. 171M376, 214NW258.

A public officer, on conviction of violation of the federal liquor laws, forfeits his office. *Op. Atty. Gen.*, Feb. 10, 1930.

6965. Forms of oath, etc.

Attorneys suspended for misconduct. 177M203, 225 NW97.

6967. By whom and how administered.

List of officers authorized to administer oaths and take acknowledgments and requirements as to attachment of seal stated. *Op. Atty. Gen.*, Mar. 23, 1933.

ACKNOWLEDGMENTS

6971. Corporate acknowledgment—Evidence.

Op. Atty. Gen., March 23, 1933; note under §6967.

6981. Execution according to foreign law.—All deeds and other instruments may be executed and ac-

knowledged in a foreign country in accordance with the laws of the place of execution.

If the instrument be made out of the state, and in accordance with the laws of the place of execution, the fact that it was executed according to such laws, shall be proved as follows:

1. If within the United States, by the certificate of the clerk or other certifying officer of a court of record of the county or district in which the acknowledgment was taken, under the seal of such court, or by the secretary of the state or territory, under the seal thereof.

2. If in a foreign country, by the certificate of an officer of the United States authorized by this chapter to take acknowledgments therein, under his seal of office, if there be one.

3. If there be no such officer of the United States therein, then by the certificate of a counselor or diplomatic officer of any other nation with which the United States has diplomatic relations, in which case, the seal of such consular or diplomatic officer shall