

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



Edited by

WILLIAM H. MASON, Editor-in-Chief
W. H. MASON, JR. }
R. O. MASON } Assistant Editors
J. S. O'BRIEN }

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CHAPTER 94

Rights of Accused

9951. To know grounds of arrest.

Constable arresting person without warrant must take him before a magistrate without delay. Op. Atty. Gen., Feb. 28, 1933.

9953. Conviction—When had.

A "confession in open court" is a formal admission that the specific crime or one included within the indictment was committed. State v. C., 182M48, 233NW590. See Dun. Dig. 2462.

9954. Dismissal, when.

"Good cause" means a substantial reason, one that affords a legal excuse. 173M153, 216NW787. Defendant's silence, in the face of numerous continuances and long delay, waives right to a speedy trial. 173M153, 216NW787.

9957. Counsel for defense; public defender in certain counties.

Attorney is only entitled to compensation for days he is actually in court regardless of service out of court in preparation for trial. Op. Atty. Gen., June 14, 1933.

CHAPTER 95

Crimes Against the Sovereignty of the State

9970. Wilful neglect of official duty.

Village officers refusing to comply with section 1175 requiring publication of annual financial statement, would violate this section. Op. Atty. Gen., Sept. 30, 1931.

Mayor of Minneapolis has no power to remove civil service commissioner from office. Op. Atty. Gen., July 12, 1932.

Proper procedure with reference to improper conduct of justice of peace would be to advise with county attorney. Op. Atty. Gen., Jan. 24, 1932.

9971. Acting in public office without having qualified.

Where a justice of the peace was elected in 1929 and due to the change in date of village elections his term expired and no successor was elected, and during such vacancy he continued to act and collect fines which he refused to turn over to the village, he might technically be prosecuted under §9971, but preferably under §10302. Op. Atty. Gen., Jan. 6, 1932.

CHAPTER 96

Crimes Against Public Justice

BRIBERY AND CORRUPTION

9982. Bribery of public officer or legislator.

This section is constitutional. 176M308, 233NW144. Variance between allegations and proof; admissibility of evidence. 180M450, 231NW225.

9983. Asking or receiving bribes.**2. Indictment.**

Indictment charging that defendant did "ask, agree to receive, and receive" a bribe, was not duplicitous or repugnant, and state need not elect. 178M437, 227NW497.

Proof of acceptance of credit on price of automobile not fatal variance from allegation of acceptance of money. 178M437, 227NW497.

Admissibility of evidence, and variance between allegations and proof. 180M450, 231NW225.

RESCUES AND ESCAPES

10005. Taking property from office.

Owner of growing crops levied on by officer violates this section by feeding the crops to his live stock. Op. Atty. Gen., Mar. 9, 1929.

PERJURY AND OTHER CRIMES

10016. Perjury defined.**1. What constitutes.**

No conviction for perjury for untrue answers to questions after plea of guilty. 171M246, 213NW900.

5. Evidence.

Evidence held to sustain verdict of guilty of perjury. State v. Olson, 186M45, 242NW348. See Dun. Dig. 7476.

10018. Knowledge of materiality not necessary.

No conviction for perjury for untrue answers to questions after plea of guilty. 171M246, 213NW900.

10028. Neglect of duty by officers, trustees, etc.

If a recorder of a village fails to perform his duties, he may be prosecuted under this section, and his conviction would create a vacancy in his office under section 6953(5). Op. Atty. Gen., Oct. 20, 1931.

10030. Arrest without authority.

Railroad held liable for unlawful arrest by special agent at depot. 176M203, 223NW94.

10034. Compounding crimes.

Complaint held not bad for duplicity, and evidence held to support conviction. 181M106, 231NW804.

10044. Misconduct by attorneys.

This section trebles damages in actions therein referred to, but does not create any new cause of action. 181M322, 232NW515. See Dun. Dig. 674.

10047. Punishment for prohibited acts.

This section provides penalties for those sections in Laws 1931, c. 70, for which no penalty is provided in section 9 of such act. Op. Atty. Gen., Oct. 19, 1931.

10052. Other false certificates.

Civil liability for false certificate as to tax liens. 181M334, 232NW359. See Dun. Dig. 2314a.

CHAPTER 97

Crimes Against the Person

HOMICIDE

10065. Defined and classified.

Evidence that defendant was the possessor of a weapon of the kind with which a homicide was committed is not rendered incompetent by reason of the fact that it tends incidentally to prove the commission of other and unrelated offenses. 172M106, 214NW782.

State's rebuttal evidence was admissible. 172M106, 214NW782.

A conviction for homicide cannot stand on evidence of motive with nothing more; there must be enough ad-

ditional evidence so that whole shows guilt beyond reasonable doubt. State v. Waddell, 187M191, 245NW140. See Dun. Dig. 4247.

10067. Murder in first degree.**8. Evidence.**

No reversible error found in reception of evidence of conversation between killer and defendant after arrest. 176M562, 223NW917.

Finding that defendant, with knowledge of killer's intent to kill, encouraged and abetted him, held justified by the evidence. 176M562, 223NW917.