

1936 Supplement
To
Mason's Minnesota Statutes
1927

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

Containing the text of the acts of the 1929, 1931, 1933 and 1935 General Sessions, and the 1933-34 and 1935-36 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.



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9950-44. Receiving stations in cities and villages.—The council of each city in the state shall, and the council of each village in the state may, purchase, install and maintain in such place as said council may determine at least one such locked-in radio receiving set as may be prescribed by the bureau for use in law enforcement and police work in such city or village in connection with the broadcasting system thereby established. (Act Apr. 17, 1935, c. 195, §4; Jan. 27, 1936, Ex. Ses., c. 104, §2.)

9950-45. Commission to supply broadcasting sets.—The commission shall purchase and supply the bureau of criminal apprehension with such locked-in radio receiving sets as are deemed necessary by the superintendent. (Act Apr. 17, 1935, c. 195, §5; Jan. 27, 1936, Ex. Ses., c. 104, §3.)

9950-46. Bureau to broadcast criminal information.—It shall be the duty of the bureau to broadcast all police dispatches and reports submitted which in the opinion of the superintendent shall have a reasonable relation to or connection with the apprehension of criminals, the prevention of crime and the maintenance of peace and order throughout the state. Every sheriff, peace officer or other person employing a radio receiving set under the provisions of this act shall make report to the bureau at such times and containing such information as the superintendent shall direct. (Act Apr. 17, 1935, c. 195, §6.)

9950-47. Telephone and telegraph companies to give priority to messages.—Every telegraph and telephone company operating in the state shall give

priority to all messages or calls directed to the broadcasting station or stations established under this act. (Act Apr. 17, 1935, c. 195, §7.)

9950-48. Permission for short wave sets must be secured.—No person other than peace officers within the state and the members of the state highway patrol shall equip any motor vehicle with a short wave length radio receiving set or use the same in such motor vehicle without first obtaining permission to do so from the superintendent of the bureau upon such form of application as he may prescribe. (Act Apr. 17, 1935, c. 195, §8.)

9950-49. Appropriation.—There is hereby appropriated out of any money in the treasury not otherwise appropriated \$25,000.00 for the fiscal year ending July 1, 1936, and \$12,500.00 for the fiscal year ending July 1, 1937, or so much thereof as may be necessary to carry out the provisions of this act. (Act Apr. 17, 1935, c. 195, §9.)

9950-50 Violations—Penalties.—Any telegraph or telephone operator who shall fail to give priority to police messages or calls as provided herein; any person who installs or uses a short wave length radio receiving set in any motor vehicle contrary to the provisions of this act; and any person who wilfully makes any false, misleading or unfounded report to any broadcasting station established hereunder for the purpose of interfering with the operation thereof or with the intention of misleading any officer of this state shall be guilty of a misdemeanor. (Act Apr. 17, 1935, c. 195, §10.)

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.

General rules stated for arrests with and without warrants and force that may be used, together with rights as to breaking into buildings to make arrests. Op. Atty. Gen., Mar. 19, 1934.

Insanity as defense—tests for determining criminal responsibility. 17MinnLawRev630.

9953. Conviction—When had.

A "confession in open court" is a formal admission that the specific crime or one included within the in-

dictment 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, 1933.

President of water, light, power and building commission, may be compelled by mandamus to sign con-

tract voted by commission. Op. Atty. Gen. (469b-6), Apr. 11, 1934.

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, 223NW144.
Variance between allegations and proof; admissibility of evidence. 180M450, 231NW225.

9983. Asking or receiving bribes.

Person convicted under §9983 in 1925 and incarcerated in the state penitentiary is not entitled to restoration of

civil rights under §9944. Op. Atty. Gen. (1841), Mar. 29, 1935.

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.

10012-1. Jumping bail a gross misdemeanor.—

Any person charged with or convicted of a felony who has been admitted to bail or released on recognizance in connection with such felony, and who wilfully fails to appear as required and thereby incurs a forfeiture of his bond or recognizance is guilty of a gross misdemeanor, if he does not appear or surrender himself within thirty days thereafter. (Act Apr. 17, 1935, c. 196.)

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.

If an intoxicating liquor inspector is rightfully within a place where non-intoxicating liquors are sold, he may seize intoxicating liquor for purpose of using same for evidence in a prosecution, but he may not search premises for intoxicating liquors, and in such case a search warrant is not necessary. Op. Atty. Gen. (218f), Feb. 5, 1935.

10033. Resisting public officer.

A sheriff cannot enter a home by force for purpose of levying an execution, but debtor is guilty of resisting an officer in refusing to give up the property. Op. Atty. Gen. (390a-6), Feb. 7, 1935.

State fire marshal may not use force to effect entry on premises for purpose of making inspection, but owner padlocking premises so that inspection may not be made is guilty of offense of resisting, delaying and obstructing a public officer in discharge of his duties. Op. Atty. Gen. (197c), May 9, 1935.

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

10067. Murder in first degree.

4. Premeditation.

Murder in the first degree requires a premeditated design to effect death of person killed or another. State v. Norton, 194M410, 260NW502. See Dun. Dig. 4232b.

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.

Dying declarations, res gestae, and sufficiency to support conviction. 180M221, 230NW639.

Circumstantial evidence held to support conviction for first degree murder of one upon whom accused carried life insurance. State v. Waddell, 187M191, 245NW140. See Dun. Dig. 4247.

10068. Murder in second degree.

Evidence sustained finding of murder in second degree. State v. Quinn, 186M242, 243NW70. See Dun. Dig. 4233.

Murder in the second degree requires a design to effect death of person killed or another, but without deliberation or premeditation. State v. Norton, 194M410, 260NW502. See Dun. Dig. 4233.

10070. Murder in third degree.

1. What constitutes.

One killing another with an automobile while recklessly driving it in an intoxicated condition may be convicted of murder in the third degree. 171M414, 214NW280.

Evidence held not to require an instruction that defendant should be acquitted if he was so drunk that he did not know what he was doing. 171M414, 214NW280.

Murder in the third degree is killing of a human being, when perpetrated by acts eminently dangerous to

others, and evincing a depraved mind, regardless of human life, although without a premeditated design to effect death of any individual, or without a design to effect death, by a person engaged in committing or attempting to commit a felony either upon or affecting the person killed or otherwise. State v. Norton, 194M410, 260NW502. See Dun. Dig. 4234.

10072. [Repealed].

Repealed by Act Mar. 31, 1933, c. 130.

10072-2. [Repealed].

Repealed by Act Mar. 31, 1933, c. 130.

10073. Manslaughter defined.

State v. Quinn, 186M242, 243NW70.

In a case where a claim is made that crime of manslaughter should be submitted, instrument or weapon with which homicide is effected must be taken into consideration. State v. Norton, 194M410, 260NW502. See Dun. Dig. 4240a.

Where evidence showed that defendant deliberately pointed gun at wife and shot her, court did not err in refusing to submit manslaughter to jury. Id. See Dun. Dig. 4247a.

10074. Manslaughter in first degree.

Upon an indictment charging manslaughter in the first degree, trial court properly submitted to the jury question of manslaughter in the second degree. State v. Stevens, 184M286, 238NW673. See Dun. Dig. 4243.

5. Evidence.

Statement of deceased forty minutes after assault, "Oh, Mother, my head hurts me, one held me while the other hit me," held admissible. 173M410, 217NW373.

Defendant advancing good character to show improbability of his guilt is not limited to general repute but may show as a fact that he possesses a certain disposition or certain characteristics. 173M410, 217NW373.

10075. Same.

Manslaughter in first degree is killing of a human being without a design to effect death, by a person committing or attempting to commit a misdemeanor, or in heat of passion, but in a cruel and unusual manner, or by means of a dangerous weapon. State v. Norton, 194M410, 260NW502. See Dun. Dig. 4240a.

10076. Killing of unborn child or mother.—Every person who shall wilfully kill an unborn quick child by an injury inflicted upon the person of its mother, and every person who shall provide, supply, or administer to a woman, whether pregnant or not, or