

1938 Supplement
To
Mason's Minnesota Statutes
1927

(1927 to 1938)
(Superseding Mason's 1931, 1934, and 1936 Supplements)

Containing the text of the acts of the 1929, 1931, 1933, 1935, and 1937 General Sessions, and the 1933-34, 1935-36, 1936, and 1937 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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5324. Supervision over banks and other financial corporations.

179M217, 228NW926.

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

5325. Refusal to obey directions of examiner.

One is not excused by the absence of guilty knowledge or intention and his consequent moral innocence. 178M9, 225NW927.

This section applies whether the duty violated was imposed by the action of 1909 or by a prior statute. 179M217, 228NW926.

The offense consists in knowingly and intentionally or negligently failing to report, and it is error to reject evidence tending to show good faith and lack of knowledge that the report was false. 179M217, 228NW926.

Offense, held committed in Isanti County though report was sent by mail to Commissioner in Ramsey County. 179M217, 228NW926.

Rulings on evidence considered. 179M217, 228NW926.

5327. Employes in office of superintendent of banks.

Legislature intended to fix amount of fidelity assurance of deputy and twelve examiners, leaving amount of bond for assistant and second assistant examiners to determination of administration, after passage of §9677-1. Op. Atty. Gen. (980a-8), May 5, 1937.

5328. State bank examiners or employees prohibited from holding bank stock.—No person who is a bank examiner or other officer or employee of the division of banking of the department of commerce of this state shall be interested, either directly or indirectly, as a stockholder, director, officer, trustee, assignee, employee, or otherwise, in any bank, savings bank, trust company, financial institution, or corporation holding the stock of any such a corporation within this state, or which carries on a banking business within this state, either directly or indirectly, or through an affiliated group or chain bank operating within this state. If the wife, or any other member of the household of a bank examiner or other officer or employee shall be so interested, it shall be conclusively presumed that said bank examiner or other officer or employee is indirectly interested in the corporation within the meaning of this act; but the meaning of the words "directly or indirectly" is not otherwise qualified. The provision of this section shall not apply to the Commissioner of Banks. ('15, c. 164, §1; Mar. 7, 1931, c. 43, §1.)

5328-1. Penalty for violation.—Any person violating the provisions of this act shall be disqualified from holding any office or employment in the division of banking of the department of commerce, and shall be removed from such office or employment by the commissioner of banks immediately upon knowledge of such violation. (Act Mar. 7, 1931, c. 43, §2.)

5332. Fees for examination of financial institutions.—Each bank, trust company, savings bank, local or general building and loan association and credit union organized under the laws of this state, shall pay into the state treasury for each authorized regular or special examination made at any time by the commissioner of banks of such institution, a fee to be determined as follows:

In the case of state banks, trust companies, or savings banks, for each examination a minimum fee of \$40.00 plus an amount equal to three cents for each \$1,000 of assets in excess of \$25,000, and not exceeding \$300,000; where the assets exceed \$300,000

and do not exceed \$500,000, a minimum fee of \$50.00, plus three cents for each \$1,000 of assets in excess of \$25,000; where the assets exceed \$500,000 and do not exceed \$1,000,000, a minimum fee of \$60.00 plus three cents for each \$1,000 of assets in excess of \$25,000; where the assets exceed \$1,000,000 and do not exceed \$3,000,000, a minimum fee of \$80.00, plus three cents for each \$1,000 of assets in excess of \$25,000; where the assets exceed \$3,000,000, a minimum fee of \$100.00, plus three cents for each \$1,000 of assets in excess of \$25,000 up to \$5,000,000, and two cents per thousand for each \$1,000 of assets in excess of \$5,000,000, and in the case of trust companies an additional amount equal to two cents for each \$1,000 value of properties held in trust for the benefit of others.

In the case of local building and loan associations, for each examination, a minimum fee of \$25.00, plus an amount equal to 2 cents for each \$1,000 of assets in excess of \$15,000.

In the case of credit unions a fee of \$10.00 where the assets do not exceed \$2,000; a fee of \$15.00 where the assets exceed \$2,000 and do not exceed \$4,000; a fee of \$17.00 where the assets exceed \$4,000 and do not exceed \$6,000; a fee of \$20.00 where the assets exceed \$6,000 and do not exceed \$8,000; a fee of \$25.00 where the assets exceed \$8,000 and do not exceed \$10,000; a fee of \$30.00 where the assets exceed \$10,000 and do not exceed \$15,000; a fee of \$35.00 where the assets exceed \$15,000 and do not exceed \$20,000; a fee of \$40.00 where the assets exceed \$20,000 and do not exceed \$25,000; and where the assets exceed \$25,000, a minimum fee of \$40.00, plus 10 cents for each \$1,000 of assets in excess thereof.

Said fees shall be paid by the institution examined within twenty days after a statement of the amount thereof shall have been rendered the institution examined by the commissioner of banks, and if not so paid shall bear interest at the rate of six per cent per annum. (As amended Apr. 17, 1937, c. 276, §1.)

Sec. 2 of Act Apr. 17, 1937, cited, provides: "all acts or parts of acts inconsistent herewith are hereby repealed."

5332-1. Examiners powers enlarged.—The examiner in charge of liquidation in the banking division of the department of commerce is hereby authorized to sign the name of the commissioner of banks and to act for him in all matters connected with the liquidation of insolvent corporations under the supervision and control of the commissioner of banks, with the same force and effect as though the commissioner himself had signed or acted. Provided, that said examiner shall have no authority to order an assessment against the stockholders of an insolvent state bank or trust company under the provisions of Laws 1927, Chapter 254 [§§7699-20 to 7699-247]. (Act Apr. 9, 1931, c. 137.)

Examiner in charge of liquidation may sign examiner's name, including affidavits incident to borrowing of money from Reconstruction Finance Corporation. Op. Atty. Gen., Jan. 22, 1934.

5334. Certain securities to be deposited with State treasurer.

Securities deposited with commissioner of banks by national bank desiring to act in a fiduciary capacity must be re-deposited with state treasurer. Op. Atty. Gen., Jan. 13, 1934.

CHAPTER 29

Public Health

5337. Meetings—Officers—Quorum.

Official bonds of secretary of department of health should be referred to commission of administration and finance for approval, and continuation certificate should not be approved, such bonds should be cumulative. Op. Atty. Gen. (45a), May 7, 1937.

5339. General duties of board—Reports.

Op. Atty. Gen., June 28, 1933; note under §5345.

Division of hotel inspection cannot compel all places of business serving food and refreshments to be equipped

with hot and cold running water and to have their sinks connected with a sewer, nor ordering separate toilet rooms for both sexes in restaurants and places of refreshment, but it can order restaurants and places of refreshment, to install two tanks behind bars to sterilize glasses and provide proper drain for glasses if such requirements are necessary for proper sterilization. Op. Atty. Gen. (238d), Oct. 24, 1935.

5345. State board of health, general and special rules.

Op. Atty. Gen., June 20, 1933; note under §9580.
Resolution by state board of health that plans and specifications must be prepared by person not prohibited from doing so under Laws 1933, c. 404, is not bound to act according to such resolution, it being merely a declaration of policy. Op. Atty. Gen., June 23, 1933.

City may not construct a swimming pool until plans and specifications are approved by the state board of health. Op. Atty. Gen. (225m), Apr. 30, 1935.

Court will not take judicial notice of health regulations. Op. Atty. Gen. (225b-4), May 21, 1935.

Health department has authority to return and quarantine tubercular patient in hospital or sanatorium. Op. Atty. Gen. (225f-1), Aug. 30, 1935.

Plans and specifications of sewage disposal plant of a metropolitan drainage district are to be approved by state board of health. Op. Atty. Gen. (225m), June 1, 1936.

Under regulation 200 adopted by state board of health, department may pass upon plans submitted to it and approve or disapprove, though plans are prepared by an engineer who is not qualified under state law. Op. Atty. Gen. (255m), June 3, 1937.

(7).

A venereal disease is a communicable disease and expense and care of a pauper family afflicted with such disease should be divided equally between village and county, and municipality should first pay such expense and apply to county for reimbursement of half thereof. Op. Atty. Gen. (225f-3), Nov. 14, 1934.

(8).

Board of control cannot administer toxin-antitoxin and scarlet fever serum without obtaining consent of relatives of children committed to home school for girls. Op. Atty. Gen., Mar. 24, 1934.

School district funds cannot be used to vaccinate school children to prevent spread of small pox during an epidemic. Op. Atty. Gen. (611a-9), Feb. 1, 1935.

(10).

A death certificate is not conclusive proof of cause of death. *Jorstad v. B.*, 196M568, 265NW814. See Dun. Dig. 3348.

5348. Local boards—Health officers.

Member of town board may receive compensation as health officer as well as member of board. Op. Atty. Gen., Feb. 7, 1929.

Town board cannot appoint as health officer one who is not a duly licensed physician. Op. Atty. Gen., Apr. 16, 1931.

Action of voters at town meeting in attempting to elect a health officer is nugatory. Op. Atty. Gen., Apr. 16, 1931.

Village is not compelled to establish its own board of health, but where it does establish one, village is liable for costs and expenses lawfully incurred under its direction. Op. Atty. Gen., Apr. 23, 1932.

Where village has no board of health, it is, nevertheless, liable for costs and expenses lawfully incurred under direction of town board in connection with public health affairs. Op. Atty. Gen., Apr. 28, 1932.

A town chairman appointed health officer pursuant to this section is entitled to compensation in addition to his compensation as a board member. Op. Atty. Gen., Apr. 6, 1933.

There is no statute authorizing a town to employ a milk inspector and pay salary out of town funds. Op. Atty. Gen. (442a-17), Oct. 13, 1934.

Town board may revoke permit for rendering plants without rendering town or themselves liable for damages, but they must act in good faith. Op. Atty. Gen. (434a-6), Mar. 22, 1935.

Health officer of a city is guilty of a misdemeanor if he contracts to perform an operation on a poor person for which city would be liable, but he may recover from city any benefits received by it, provided city may require him to perform such operation as a part of his services as an officer without consideration other than salary received. Op. Atty. Gen. (90e), Jan. 25, 1937.

5349. Duties of local boards of health—Penalties.

City health department has right to subject school children exposed to tuberculosis to reasonable tests. Op. Atty. Gen., June 15, 1933.

Offices of clerk of school board and member of town board are incompatible where town board is also local health board. Op. Atty. Gen. (358e-6), Mar. 29, 1935.

5351. Powers of health officer in assuming jurisdiction over communicable diseases.

Op. Atty. Gen., Apr. 28, 1932; note under §5348.
Whether removal of tonsils of diphtheria carrier would be control measure for benefit of public, is question of fact. Op. Atty. Gen., June 11, 1932.

There are three classes of measures employed in controlling communicable diseases, quarantine, other control measures such as vaccination, etc., and measures looking only to comfort and treatment of particular individual suffering from disease, first is purely public measure, expenses of which are paid by local health districts, one-half to be claimed against county, and same is true as to second class, if individuals cannot pay, but

there is no public liability as to third class except by way of poor relief. Op. Atty. Gen., June 11, 1932.

Local board of health on advice of state board of health has power to seize a person afflicted with tuberculosis and carry him off to public hospital. Op. Atty. Gen., May 10, 1933.

Whether tuberculosis of knee is a communicable disease is question of fact to be determined by medical experts. Op. Atty. Gen., Sept. 26, 1933.

Where a tubercular person is placed in a sanatorium at the request of the municipality of his settlement, municipality is acting under its legal poor obligation and is entitled to a refund from the county under §3195, but if the municipality is proceeding under §5351 and expends money thereunder, it is entitled to a refund of ½ of its expenditures from the county, but the half assumed by the municipality cannot be included as poor relief for purpose of securing a further reimbursement under §3195. Op. Atty. Gen. (339f-3), June 15, 1934.

County commissioners may not make an appropriation for vaccination of relief children unless epidemic exists, and when it does make an appropriation for that purpose it cannot limit use of funds to relief children. Op. Atty. Gen. (611a-9), Feb. 14, 1935.

All charges incident to the establishment, maintenance and releasing of quarantine are proper charges against health district, but any medical aid or services in way of treatment of patient for benefit of such patient is not proper charge. Op. Atty. Gen. (611a-7), Apr. 16, 1935.

County is not liable for one-half expense incurred in treatment of communicable diseases when there has been no quarantine. Op. Atty. Gen. (611a), June 27, 1935.

Expense incident to establishing, enforcing and releasing of quarantine is a legal charge upon health district, irrespective of financial ability of person quarantined or other person responsible, but a physician's charges for services rendered to sick person do not become a charge upon a health district unless sick person is a pauper. Op. Atty. Gen. (611a-7), Sept. 24, 1935.

If primary purpose of treatment is to benefit patient, §§4545 and 4546 apply, while if purpose is for isolation of person for protection of general public, §§5351 et seq. are to be complied with. Op. Atty. Gen. (611a-8), June 16, 1936.

Where township in county operating under town system expends in care and maintenance of tubercular persons in discharge of its legal obligations of providing medical attention to its proper residents, it is impairable to reimbursement of 75 per cent as provided in §3195, but if township is proceeding pursuant to §5351, township is entitled to reimbursement of one-half of its expenditure but the half of the expenditure assumed by township cannot be included as poor relief for purpose of securing further reimbursement under §3195. Op. Atty. Gen. (400k), Aug. 1, 1936.

Where a nonresident of the state has been hospitalized at Glen Lake Sanatorium at request of health commissioner of Minneapolis, as a tubercular person and a public health menace, patient is not a "free patient" for whom aid will be paid under §708, but board of control may pay for maintenance and care as provided in §710. Op. Atty. Gen. (88a-31), Mar. 22, 1937.

Cost of maintaining a poor person in state sanatorium is to be charged against county of poor person's residence, and no part of it is to be charged against town or village, though patient is suffering from a communicable disease. Op. Atty. Gen. (556a-8), May 27, 1937.

Health district is chargeable only with expenses incident to establishment, maintenance and releasing of quarantine, one-half of which must be paid by county, and expenses incident to care and relief of a family in nature of medical care and advice, nursing, food, etc., are ultimately chargeable against municipality in which family has its place of settlement. Op. Atty. Gen. (611a-6), June 8, 1937.

Expense of maintaining patient at state sanatorium is chargeable against local health district where patient is sent to sanatorium for purpose of preventing spread of disease, such as tuberculosis. Op. Atty. Gen. (611a-8), June 11, 1937.

5352. Allowance and payment of expenses, etc.

Op. Atty. Gen., Apr. 28, 1932; note under §5348.
Op. Atty. Gen., June 11, 1932; note under §5351.

Person who has communicable disease should pay expenses of care, but if it is impossible to secure payment from him, local health district must assume expense and may recover one half from county. Op. Atty. Gen., July 31, 1933.

In county operating under town system of caring for poor, township finding it necessary to isolate poor person having tuberculosis is entitled to be reimbursed by county to extent of ¼ of cost. Op. Atty. Gen., Dec. 2, 1933.

A venereal disease is a communicable disease and expense and care of a pauper family afflicted with such disease should be divided equally between village and county, and municipality should first pay such expense and apply to county for reimbursement of half thereof. Op. Atty. Gen. (225f-3), Nov. 14, 1934.

County need not pay half of a claim which it deems unreasonable in amount. Op. Atty. Gen. (611a-7), Dec. 7, 1934.

Reimbursement of city by county for one-half of expenses incident to control may be paid without resort to

action against person benefited. Op. Atty. Gen. (611a), Apr. 22, 1936.

City is not liable for value of books located in house under quarantine. Op. Atty. Gen. (611a-7), Apr. 22, 1936.
County is liable for one-half of expenses incurred by municipality in establishing, enforcing and releasing quarantine for control of communicable diseases, including venereal diseases, and for one-half of cost of treatment where same is deemed necessary for control of diseases for protection of public. Op. Atty. Gen. (225f-3), Aug. 28, 1936.

5353. Appeal from disallowance—costs.

Op. Atty. Gen., June 11, 1932; note under §5351.

5353-1. Public health nurses in counties, cities, villages, towns, etc.

A school nurse cannot be classified as a teacher and cannot enter into a contract with school board for a definite period of time. Op. Atty. Gen. (905f), May 14, 1935.

5353-2. Same—Expenses.

If the county purchases an automobile, gasoline and repairs, the limitations of Laws 1931, c. 331, have no application but such act does apply if county nurse furnishes her own automobile and bills the county for reimbursements. Op. Atty. Gen., May 23, 1931.

Whether it is necessary for town to employ driver for nurse's car and health officer's car is matter for determination by town board after taking into consideration all facts involved. Op. Atty. Gen. (442a-17), Oct. 13, 1934.

There is no statute authorizing town board to employ recreational directors and pay for their services out of town funds. Id.

5353-3. Same—Must be registered nurses.

Nurses employed by municipalities must be registered pursuant to statute. Op. Atty. Gen., Aug. 10, 1932.

5354. Vital statistics—state board to have charge.

—The state board of health shall have general supervision and charge of the state system of registration of births and deaths and may make, and enforce, any regulations necessary for the proper carrying out of the same. The secretary of the state board of health shall be designated and known as the state registrar and shall be the administering officer of the state in connection therewith, charged with the enforcement of the provisions of this act. The state registrar may appoint, and at his pleasure remove, an employee of the state board of health as deputy state registrar, who shall render such aid as the state registrar may require of him in the discharge of his official duty. (As amended Apr. 17, 1937, c. 263, §1.)

5356. Birth certificates—Form and contents.

Manner of correcting birth certificates, discussed. Op. Atty. Gen., Aug. 11, 1931.

Child born in wedlock but not conceived in wedlock should be certified as an illegitimate. Op. Atty. Gen., Mar. 24, 1934.

Birth record may not be changed in paternity cases except on order of court, but it is proper to attach affidavit of father to record. Op. Atty. Gen. (225k), Aug. 20, 1935.

5356-1. School nurses, etc., shall keep health records of children.—It shall be the duty of every school nurse, school physician, school attendance officer, superintendent of schools, principal, teacher and of the persons charged with the duty of compiling and keeping the school census records to cause a permanent public health record to be kept for every child of school age. Such record shall be kept in such form that it may be transferred with the child to any school which the child shall attend within the state and transferred to the board of health when the child ceases to attend school. It shall contain a record of such health matters as shall be prescribed by the board of health, and of all mental and physical defects and handicaps, which might permanently cripple or handicap the child. Nothing in this act shall be construed to require any child whose parent or guardian objects in writing thereto to undergo a physical or medical examination or treatment. A copy shall be forwarded to the proper department of any state to which the child shall remove. (Act Apr. 20, 1929, c. 277, §1.)

5356-2. To furnish copies of records to juvenile court.—Whenever any child shall be brought into juvenile court, the court shall request and the custo-

dian of the record shall furnish a complete certified copy of such record to the court, which copy shall be received as evidence in the case; and no decision or disposition of the pending matter shall be finally made until such record, if existing, shall be considered. (Act Apr. 20, 1929, c. 277, §2.)

5356-3. Commissioner of Education to report to Children's Bureau.—It shall be the duty of the state commissioner of education to cause a report to be made periodically to the children's bureau of the state of all diseases and defects that are of a continuous nature or that might result in a permanent handicap to the child, which have not been heretofore reported. He shall also furnish to the state board of health such information from the records as that board shall desire. (Act Apr. 20, 1929, c. 277, §3.)

5356-4. False statements to be cause for discharge.

—Any intentionally false statement in such certificate and any act or omission of a superintendent or superior officer to connive at or permit the same shall be deemed good cause for summary discharge of the person at fault regardless of any contract. (Act Apr. 20, 1929, c. 277, §4.)

5357. Death certificates—Form and contents.

176M360, 223NW677; note under §5366.

The medical certificate of death is not admissible in litigation between private parties to prove the "indications" or inferences of murder, suicide, or accident, drawn by the certificate maker from the "means and circumstances" of a violent death. Backstrom v. N., 183M384, 236NW708. See Dun. Dig. 3347(62), 3348(67).

Medical expert may properly give reasons for opinion expressed as to cause of death. Milliren v. F., 185M614, 242NW290. See Dun. Dig. 3327.

In action on accident policy, death certificate made by attending physician and filed was not conclusive, but could be contradicted, and when shown to be hearsay would have no probative value. Milliren v. F., 185M614, 242NW290. See Dun. Dig. 3348, 3349.

Under c. 272, Laws 1915, as amended by c. 404, Laws 1919, and modified by c. 280, Laws 1921, coroner of Hennepin county or a deputy coroner is required to investigate violent, mysterious, and accidental deaths, and may order an autopsy when and where he deems proper, but order directing an autopsy did not conclude plaintiff, and she had right to show that autopsy was unauthorized or that it was improperly made, and this being construction placed on statutes, it cannot be claimed that they are in violation of due process clause of state or federal constitutions, nor violative of constitutional provision prohibiting special legislation, nor are their titles defective. Kingsley v. F., 192M468, 257NW95. See Dun. Dig. 2599.

Certificate of undertaker was rightly excluded as of no probative force on issue tried—it being palpably hearsay of deputy coroner not a physician. Miller v. M., 193M497, 270NW559. See Dun. Dig. 3348.

Death certificate of an adopted child should show the natural parent and also the same information as to adoptive parents. Op. Atty. Gen. (225j), Dec. 11, 1935.

5361. Interment, duties of persons in charge of places of.

A body buried in part of cemetery set aside for use of entrance by unknown persons without authority of cemetery authorities should not be removed to a different part of cemetery without attempt to obtain consent of nearest of kin or without order of court. Op. Atty. Gen. (870d), May 14, 1937.

5365. Fees of local registrars—Tabulation, etc.

Clerk of court whose salary is fixed by Laws 1909, c. 335, as amended by Laws 1913, c. 511, and by Laws 1919, c. 229, is not entitled to extra compensation for indexing and keeping vital statistic records. Op. Atty. Gen., Mar. 24, 1933.

Clerk of court has authority to correct false birth records upon proper showing by affidavit as provided by this section. Op. Atty. Gen. (144b-27), Dec. 13, 1934.

Birth record may not be changed in paternity cases except on order of court, but it is proper to attach affidavit of father to record. Op. Atty. Gen. (225k), Aug. 20, 1935.

Affidavit should not be sent to state registrar of vital statistics. Person may exercise his own discretion in acceptance of affidavit and extent of his investigation. Clerk cannot predicate an entire complete new birth record on affidavit under this section. Op. Atty. Gen. (144b-27), May 7, 1936.

H.

Confidential information given to child welfare board should be classed as privileged and its disclosure would be contrary to public interest. Op. Atty. Gen., Dec. 29, 1933.

D.

Legitimation by marriage of parents of child born illegitimate may be shown by ordinary affidavit. Op. Atty. Gen., Aug. 11, 1931.

Where, following birth of illegitimate, father signed affidavit of admission of paternity and thereafter married mother and two years later a divorce was obtained, child was legitimate and father could be prosecuted for desertion. Op. Atty. Gen. (494b-27), Sept. 17, 1935.

Clerk of district court upon receiving annual report from state registrar with a copy of affidavit of father legitimizing a child, should so amend or correct his record, as to such child as to show name of father and fact that child has been legitimized. Op. Atty. Gen. (144b-27), May 6, 1937.

5306. Certified copies of record of evidence.

Milliren v. F., 185M614, 242NW290; note under §5357. Coroner's certificate is not admissible in evidence as showing that death was suicidal. New York L. I. Co. v. A. (CCA8), 66F(2d)705.

The medical certificate of death provided for by statutes is admissible in evidence to prove, prima facie, the immediate cause as well as the fact of death. 176M360, 223NW677.

The medical certificate of death is not admissible in litigation between private parties, to prove the "indications" or inferences of murder, suicide, or accident, drawn by the certificate maker from the "means and circumstances" of a violent death. Backstrom v. N., 183 M384, 236NW708. See Dun. Dig. 3347(62), 3348(67).

Where child has been legitimized by affidavit of parent, clerk of court may furnish a certified copy of amended birth record, but only include therein so much of birth record as does not relate to illegitimacy of child, and complete certified copy of entire record may be secured only by obtaining order of court. Op. Atty. Gen. (144b-27), May 6, 1937.

5372. Assignment of places, etc.

Town board may revoke permit for rendering plants without rendering town or themselves liable for damages, but they must act in good faith. Op. Atty. Gen. (434a-6), Mar. 22, 1935.

5377. Other remedies preserved.

Where a municipality casts sewage upon private property and creates and maintains a nuisance thereon, the owner or lawful occupant may recover damages. 177M 547, 225NW898.

5379. Nuisance, source of filth, etc.

In an action to recover damages for the loss of a building destroyed after an effort by city authorities to condemn it under a city ordinance, held that the evidence was insufficient to establish that the order of condemnation was posted on the building, as provided by the ordinance, and the court properly directed a verdict for plaintiffs, leaving the amount thereof to the jury. Cates et al. v. R., 182M494, 234NW681. See Dun. Dig. 6809(78).

5381. Tuberculosis—Physicians to report to state board, etc.

School district may pay physician for x-rays to be taken of school children suspected of being tubercular. Op. Atty. Gen. (159b-7), May 25, 1934.

5383. Removal of public sanatorium or hospital.

Op. Atty. Gen., May 10, 1933; note under §5351. County sanatorium commission may enter into agreements with public welfare board of city of the first class under home rule charter for handling and diagnosing of tuberculosis. Op. Atty. Gen. (556a-3), Mar. 29, 1935.

Health department has authority to return and quarantine tubercular patient in hospital or sanatorium. Op. Atty. Gen. (225f-1), Aug. 30, 1935.

This section does not authorize a county board to pay expenses of a tuberculosis patient, but §726 does authorize board to pay for care of a poor person afflicted with tuberculosis, and to take an assignment of interest of poor persons in an estate to indemnify county, but board cannot contract to furnish care and support beyond its legal obligations to furnish same under laws relating to poor relief. Op. Atty. Gen. (556a-8), June 2, 1936.

Expenses of person admitted to state sanatorium under §4545-1 are to be paid by the state, and not a county, and person admitted cannot gain residence during period of hospitalization in county from which he came or county in which sanatorium is located. Op. Atty. Gen. (339f-3), July 11, 1936.

County may pay expenses incurred in treatment of tubercular poor person outside of state sanitarium. Op. Atty. Gen. (556a-7), May 18, 1937.

5384. Teachers, pupils, etc.—Certificate.

Finding that school district was negligent in exposing school teacher to tuberculosis, sustained by evidence, but there was not sufficient evidence to show that it maintained a nuisance by its failure to make the school building sanitary, and it was not liable for damages under §3098. 177M454, 225NW449.

5385. Infected premises—Disinfecting.

177M454, 225NW449; note under §5384.

5390. Proclamation—Publication.—If on such investigation any such officer finds and determines that rabies does exist in any town, city or village, he shall forthwith and thereupon make and file, as hereinbefore provided, a proclamation, setting forth the fact of such investigation and determination, and also in and by said proclamation prohibit the owner or custodian of any dog from permitting or allowing such dog to be at large within such town, city or village, designating it, unless such dog shall be so effectually muzzled that it cannot bite any other animal or any person.

Whenever the secretary and executive officer of the State Live Stock Sanitary Board, after investigation, has determined that rabies exists in any territory in the State of Minnesota he shall issue similar proclamations in all towns, villages and cities within such territory or area which in his judgment it is necessary to control the outbreak and prevent the spread of such disease, and such proclamation when filed as hereinbefore provided, shall prohibit the owner or custodian of any dog within the designated territory, from permitting or allowing such dog to be at large within such territory unless such dog shall be so effectively muzzled that it cannot bite any other animal or any person.

It shall be the duty of all local peace officers and all health officers to enforce the provisions of this act and any person violating any of its provisions shall be guilty of a misdemeanor.

Such proclamation, when issued by the executive officer of a town or village board of health, shall be filed with the town or village clerk, respectively; when issued by the chief health officer of a city, it shall be filed with the city clerk; when issued by the state official hereinbefore named, it shall be filed with the clerk of each town, village and city within the territory specified therein.

It shall be the duty of each officer with whom such proclamation is filed as aforesaid, to forthwith publish a copy thereof in one issue, at the expense of his municipality, in a legal newspaper published in the town, village or city of which he is clerk, if such a newspaper is published therein, and if there be no newspaper published therein, then, to post a copy of such proclamation in three public places therein.

Proof of publication shall be made by affidavit of the publisher in the one case, and of posting, in the other, by the person posting the same, which affidavit shall be filed with the proclamation. Such proclamation shall be deemed effective and in full force five days after the publication or posting of copies thereof, as hereinbefore provided for, and shall remain in full force and effect for a period of time therein designated not exceeding six months, as shall be determined by the officer making such proclamation. (G. S. '13, §4685; '13, c. 541, §2; Feb. 20, 1929, c. 34.)

5391-1. Federal aid for maternal and child welfare service—Custodian of fund—plan of operation—local appropriations.—The state treasurer of the state of Minnesota is hereby appointed as the custodian of all monies received or which may hereafter be received, by the state of Minnesota, by reason of any federal aid granted for maternal and child welfare service, and for public health services, which monies shall be expended in accordance with the purposes expressed in the Acts of Congress granting such aid, and solely in accordance with plans to be prepared by the state board of health; that the plans so to be prepared by said state board of health for maternal and child health service shall be approved by the United States Children's Bureau; and that the plans of the state board of health for public health service shall be approved by the United States Public Health Service. Such plans shall include the training of per-

sonnel for both state and local health work, and shall conform with all the requirements governing federal aid for said purposes; and such plans shall be designed to secure for the state of Minnesota the maximum amount of federal aid which is possible to be secured on the basis of the available state, county and local appropriations for such purposes. The state board of health shall make reports which shall be in such form and contain such information as may be required by said United States Children's Bureau or the United States Public Health Service, as the case may be; and it further shall comply with all the provisions, rules and regulations which may be prescribed by said federal authorities in order to secure the correction and verification of such reports. (Jan. 24, 1936, Ex. Ses., c. 70, §1.)

5391-2. Same—rules and regulations.—The state board of health may make such reasonable rules and regulations as may be necessary to carry into effect the provisions of this act; and alter, amend, suspend or repeal any of such rules and regulations. (Jan. 24, 1936, Ex. Ses., c. 70, §2.)

SUBJECTS FOR DISSECTION

5393. What bodies excepted.

Wife has legal right to possession of dead body of her husband for purpose of a decent burial and a wrongful mutilation of or interference with corpse entitles surviving wife to damages against wrongdoer. *Kingsley v. F.*, 192M465, 257NW95. See Dun. Dig. 2599.
Nature of property rights in a dead body. 18MinnLaw Rev204.

GARBAGE REMOVAL

5394-1. Unlawful to transport garbage without permit.—It shall be unlawful for any person to transport garbage, offal, ashes, or other rubbish over any

public highway, including trunk highways, without first obtaining a permit so to do from the governing body of each town, city, or village through which such transportation may take place. A separate permit shall be issued for each vehicle used in such transportation, and shall state the period of time, not exceeding one year, that the permit shall be in effect, and the place to which and the roads over which such garbage, offal, ashes, or other rubbish may be transported. The governing body of such town, city or village, may revoke any permit at any time. The driver or operator of each such vehicle shall carry such permit on his person or attached to such vehicle at all times while transporting such material. The provisions hereof shall not apply to the transportation of any of the materials herein mentioned over roads within the limits of the town, city or village in which such garbage, offal, ashes or other rubbish originates. (Act Mar. 19, 1931, c. 77, §1.)

5394-2. Violation a misdemeanor.—Any person violating any of the provisions of this act shall be guilty of a misdemeanor. (Act Mar. 19, 1931, c. 77, §2.)

5394-3. Definitions.—The word "person" as used herein shall include individuals, copartnerships, or corporations, and shall include persons hauling under contract or agreement with any municipal corporation or board or commission thereof, and any employe of such contractor, or of such municipality, board or commission. (Act Mar. 19, 1931, c. 77, §3.)

5394-4. Application.—This act applies only in all counties of this state having a population of over 500,000 inhabitants. (Act Mar. 19, 1931, c. 77, §4.)

CHAPTER 30

Live Stock Sanitation

5402. Diseased horses and cattle to be killed—Rate of compensation to owner.—Whenever the State Live Stock Sanitary Board (hereinafter called the board) shall decide upon the killing of an animal affected with the disease of tuberculosis, paratuberculosis, or glanders, it shall notify the owner or keeper thereof of such decision and when in the judgment of the board, such animal may be ordered transported for immediate slaughter by said board, through its executive officer to any abattoir where the United States Bureau of Animal Industry maintains inspection, or where the United States Bureau of Animal Industry or the board may establish field post mortem inspection, and the owner shall receive the value of the net salvage of the carcass.

Before the animal is removed from the premises of the owner, the representative or authorized agent of the board shall agree in writing with the owner as to the value of such animal; in the absence of such agreement, there shall be appointed three (3) competent disinterested men, one appointed by the board, one by the owner, and a third by the first two, to appraise such animal at its cash value, taking into consideration the condition of the animal as to the disease and its present and probable effect on the animal; provided, however, that the appraisal of steers shall be limited to the actual market beef value of the animal at the time of the appraisal.

Such appraisal shall in no case exceed \$100 for a cow and \$125 for a horse, except in the case of pure bred cattle and horses where the pedigree shall be proved by certificates of registration from the herd books where registered, and in which case the maximum appraisal shall not exceed \$200.

The appraisements made under this act shall be in writing and signed by the appraisers and certified by the board, to the auditor of the state, who shall draw a warrant on the state treasurer for the amount due the owner. ('03, c. 352, §13; '05, c. 115; '09, c. 401;

G. S. '13, §4696; '13, c. 148, §1; '15, c. 114, §1; '21, c. 485, §1; '25, c. 230, §1; Feb. 20, 1929, c. 35, §1; Feb. 28, 1935, c. 32.)

5403. Same—Inspection before killing—Appraisal and payment for animals killed—Foot and mouth disease.—(a) Notwithstanding any provision of this chapter to the contrary, neither cattle affected with tuberculosis, paratuberculosis, nor glandered horses shall be killed as such until they have been inspected by a veterinarian appointed by the board, and are pronounced by him to be so diseased.

For each animal slaughtered because of tuberculosis, paratuberculosis, or glanders, the value of the net salvage of the carcass shall be deducted from the appraised value of the living animal; two-thirds of the remainder shall be paid to the owner by the state, but the amount paid by the state shall in no case exceed the sum of \$50 for a grade bull, steer or cow, or the sum of \$100 for a pure bred bull or cow. In all cases where the Federal Bureau of Animal Industry compensates the owner for such animal, in whole or in part, the amount of such compensation so received from the Federal Government shall be deducted from the amount of indemnity which would be otherwise payable by the state. (As amended Feb. 20, 1929, c. 35, §2.)

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- (b) The owner * * *
- 1. [Repealed].
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Laws 1929, c. 35, §2, amends subd. (a) of this section. Section 3 of the same act repeals subdivision 1 of paragraph (b).

5408. Live stock detectives.—Any person duly commissioned by a governor, or the Livestock Commission, or any other proper authority of another state to act as a live stock detective may exercise his powers as such in this state, consistently with the laws