

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.



Edited by

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

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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. 23, 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.)

- * * * * *
- (b) The owner * * *
- 1. [Repealed].
- * * * * *

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

thereof, upon paying a fee of five dollars and filing with the secretary of state:

1. His commission, or a certified copy thereof.
2. A bond to the state in the penal sum of two thousand dollars, approved by the secretary, and conditioned for the payment of all damages resulting to any person from any wrongful seizure of property within the state, or other unlawful act done therein by him or by any of his deputies.
3. A stipulation that service upon such secretary of any summons, order, notice, or process in a civil action upon such bond shall be a sufficient service upon him or his deputies.

Thereupon the secretary of state shall issue certificates to him, and to not exceeding three deputies by him, and for whose acts he shall be responsible, authorizing the holder to perform the duties herein referred to while such commission is in force. And each may seize and hold any animal which he may know or have reason to believe has strayed or been stolen from the state whence said commission issued. (R. L. '05, §2167; G. S. '13, §4702; Apr. 17, 1933, c. 303.)

5409. Transportation of animals or fowls into State forbidden—exceptions.—That it shall be unlawful for any transportation company, owners or drivers of trucks for hire, or private trucks, person or persons to bring into the state of Minnesota or to drive or lead over the highways into this state, any animals or poultry, for work, feeding, breeding or dairy purposes, except in compliance with the rules and regulations now or hereafter adopted by the live stock sanitary board. ('07, c. 355, §1; G. S. '13, §4703; Feb. 28, 1935, c. 31, §1.)

5410. Transportation companies to hold livestock and poultry.—That in any case where the rules and regulations of the livestock sanitary board have not been complied with, transportation companies shall notify the Live Stock sanitary board and shall hold such animals and/or poultry at the first station within Minnesota where are suitable facilities for holding animals and/or poultry for inspection by the live stock sanitary board, such inspection to be made at the expense of the owner. ('07, 355, §2; G. S. '13, §4704; Feb. 28, 1935, c. 31, §2.)

5411. Violation a gross misdemeanor.—Any transportation company, corporation or agent thereof, or owners or drivers of trucks for hire, private trucks, person or persons violating any of the provisions of this Act, shall be guilty of a gross misdemeanor, and upon conviction thereof shall be fined for each offense not less than \$500.00, nor more than \$1000.00, or be imprisoned for not more than one year. Such transportation company, corporation or agent or owners or drivers of trucks for hire, private trucks, person or persons shall be liable in a civil action to any person injured for the full amount of damages that may result from the violation of this act. Action may be brought in any county in the state in which said cattle are sold, offered for sale or delivered to purchaser, or anywhere they may be detained in transit. ('07, c. 355, §3; G. S. '13, §4705; Feb. 28, 1935, c. 31, §3.)

5412. [Repealed.]

Repealed. Laws 1935, c. 31, §4.

5416. County board may appropriate money for cattle testing.—The boards of county commissioners of the several counties of this state may, in their discretion, and upon petition signed by cattle owners residing therein equal in number to a majority of the cattle owners within the county, as shown by the last preceding assessment roll, shall, immediately or at the next meeting of the board of county commissioners, enter into an agreement with the State Live Stock Sanitary Board for the testing of all cattle in the county on the "county area" plan, and shall also appropriate out of the funds of the county not otherwise appropriated, a sum of money not exceeding twenty-five cents per head of cattle for each tuber-

culin test that may be administered, until the percentage of tuberculous cattle within the county is reduced to meet the requirements of a "modified accredited area" as defined and approved by the United States Department of Agriculture and the State Live Stock Sanitary Board of Minnesota, for the purpose of aiding in the testing of cattle in the county for tuberculosis and of carrying out sanitary and quarantine regulations. When there are no funds available for such an appropriation, a tax shall be levied in a sufficient amount for the purpose, and after the levy thereof orders may be issued against such tax and in anticipation of its collection. All such money shall be expended under the direction and supervision of the State Live Stock Sanitary Board and shall be disbursed on vouchers verified by the executive officers of said board, and in cases where the United States Department of Agriculture, Bureau of Animal Industry, is a party to a cooperative agreement with the county for the control of tuberculosis in cattle, by the federal inspector in charge, as hereinafter provided; provided that, in counties where petitions for the tuberculin test of cattle have been heretofore filed with the boards of county commissioners as herein provided, and in which the boards of county commissioners have not entered into an agreement with the State Live Stock Sanitary Board for the testing of all the cattle in the county, the boards of county commissioners of such counties shall, upon petition of one hundred or more resident cattle owners, forthwith enter into such contract and otherwise in all things comply with the provisions of this act. ('23, c. 269, §1; Apr. 25, 1931, c. 360, §1.)

Law does not delegate legislative power in commanding its enforcement by county board only upon certain conditions. *State v. Board of Com'rs*, 186M524, 243NW851. See Dun. Dig. 1599.

Title held germane to subject matter. *State v. Board of Com'rs*, 186M524, 243NW851. See Dun. Dig. 8920.

Act is constitutional. *State v. Board of Com'rs*, 243NW 851.

Vouchers issued by the Live Stock Sanitary Board and the federal inspector are insufficient to authorize the county auditor to issue warrants without approval of the county board, but no warrants may be issued in excess of levy of tax for the purpose, but the county board may be compelled to include a sufficient levy to pay the bills in the next years levy. *Op. Atty. Gen.*, Dec. 10, 1929.

Levy under this section is not subject to the seven mill limit prescribed by §2060-1. *Op. Atty. Gen.*, May 31, 1930.

Persons who own cattle but whose names do not appear upon the assessment roll as owning cattle may sign the petition and be counted. *Op. Atty. Gen.*, Feb. 20, 1931.

Persons signing petition for a tuberculin test under the county area plan have a right to withdraw their names therefrom, and petitioners who sign a remonstrance thereby withdraw their names. *Op. Atty. Gen.*, July 2, 1931.

The 1931 amendment applied to petitions for a tuberculin test under the county area plan where presented to the board after the amendment, though signed prior thereto. *Op. Atty. Gen.*, July 2, 1931.

The live stock sanitary board cannot legally refuse to slaughter and pay indemnity for cattle that react to the tuberculin test or which are affected with the disease, just because such cattle are located in counties in which the county boards have not executed co-operative agreements with the board. *Op. Atty. Gen.*, Sept. 28, 1931.

A county commissioner who is a veterinarian may not test cattle for tuberculosis on the county area plan, though carried out under livestock sanitary board. *Op. Atty. Gen.*, July 12, 1933.

Levy for tuberculosis tests may be made before July meeting. *Op. Atty. Gen.*, Jan. 30, 1934.

5417. Live stock sanitary board to make test.—The State Live Stock Sanitary Board shall enter then into an agreement with the county commissioners of said county to cause the testing of all cattle in the county for tuberculosis, provided funds are available for the payment of indemnities as required by law, and provided also that an adequate force of veterinarians qualified to test cattle as required are available. Such agreement shall specify such quarantine rules and regulations as the State Live Stock Sanitary Board may deem advisable relative to the control of tuberculosis among cattle in such county. ('23, c. 269, §2; Apr. 25, 1931, c. 360, §2.)

Op. Atty. Gen., Sept. 28, 1931; note under §5416. Persons employed by State Livestock Sanitary Board under this act are state "employees" within the Workmen's Compensation Law. 179M425, 229NW560. County is liable for applying tuberculin test to cattle owned by non-residents, pastured in the county. Op. Atty. Gen., Aug. 4, 1930.

5418. Subsequent test to be made without expense.—After a county has been certified as a "modified accredited area," subsequent tests of cattle in the county and retests of infected herds and any and all retests necessary to keep and maintain said area free from bovine tuberculosis as herein required for a "modified accredited area" shall be made in the discretion of the State Live Stock Sanitary Board, and such tests and retests shall be without expense to the county. ('23, c. 269, §3; Apr. 25, 1931, c. 360, §3.)

5432. Duties of live stock sanitary board.
This act saved from repeal by Laws 1937, c. 119, §15, post, §5851-15.

5446. Must have permits to administer virus.—No person shall use or administer virulent blood or hog cholera virus within this state unless he shall have been granted a permit by the board authorizing him to use or administer the same. Such permits shall be in writing and shall be issued only to such persons as in the opinion of the board are qualified to administer the same and shall only be used or administered in infected territory. The area within a radius of six miles from premises whereon hog cholera exists, or has existed within the preceding twelve months, shall constitute infected territory. Qualified licensed veterinarians may administer virulent blood or hog cholera virus in non-infected territory upon receipt of a special permit to administer the same to hogs on an individual farm. All permits shall require the holders thereof to comply with all quarantine regulations of the board and may be cancelled by the board upon it appearing that the holder thereof is no longer a proper person to administer such virulent blood or hog cholera virus. ('23, c. 112, §15; Feb. 23, 1929, c. 36.)

5459. [Repealed.]
Repealed. Laws 1935, c. 27.

5460. [Repealed.]
The repeal of §5459, on which this section depends, probably works an implied repeal of this section.

5460-1 to 5460-3. [Repealed.]
Repealed Feb. 20, 1929, c. 33, §5.
Act Feb. 27, 1935, c. 26, repeals Laws 1929, c. 33, which repealed these sections. In view of §10930 the repealed sections are not revived.

5460-3½ to 5460-3½ c. [Mason's 1934 Supp.] [Repealed.]
Repealed. Laws 1935, c. 26.

POULTRY

5460-7. Poultry breeding board created.—For the purpose of fostering the development of the poultry industry of the state of Minnesota, particularly through the improvement of breed type and productivity of poultry flocks and through the control and eradication of infectious and communicable diseases and for the further purpose of affording protection to buyers of poultry breeding stock by providing and indicating dependable sources from which poultry may be purchased, there is hereby created a body to be known as the Minnesota Poultry Improvement Board which shall be constituted as follows: The Commissioner of Agriculture, Dairy and Food of the State of Minnesota, the Chief of the Poultry Division of the College of Agriculture, University of Minnesota, the secretary and executive officer of the State Livestock Sanitary Board and two other members who shall be competent and experienced poultrymen and who shall also be owners and operators of commercial poultry hatcheries to be appointed by the governor of the state of Minnesota each for terms of three years and until their successors qualify; provided, however, that, of the first two appointments of hatchery owners after

the passage of this act, one shall be appointed for a two year term only. (Act Apr. 25, 1931, c. 408, §1.)

5460-8. Board to serve without compensation.—The members of the Minnesota Poultry Improvement Board shall serve without compensation as such, but the expenses of each, necessarily incurred in the discharge of his duties, shall be paid by the state. Within 30 days after this act goes into effect the board shall meet and elect a president and a vice president and do such other things as are needful to initiate the work provided for in this act. The board shall hold quarterly meetings at the seat of government on the first Tuesday after the first Monday in January, April, July and October. Officers shall be elected at the April meeting. Special meetings may be held upon the call of the president of the board. Three members shall constitute a quorum. (Act Apr. 25, 1931, c. 408, §2.)

5460-9. Powers and duties.—The Minnesota Poultry Improvement Board shall have power to employ a secretary and executive officer, not a member of the board, for a term of one year and until his successor qualifies. The said secretary and executive officer shall be a competent and experienced poultryman. The board may also employ and dismiss at will such other persons as are necessary to carry out the provisions of this act and to fix all salaries and to provide for expenses generally not inconsistent with law. The board is further authorized and directed to formulate and adopt a plan or plans whereby owners of poultry hatcheries may be accredited and certified such flocks culled, inspected and supervised to the end that such flocks may be accredited and certified for standard type and egg production; and likewise poultry hatcheries may be accredited and certified as hatching and selling stock produced only from accredited and certified flocks. The board is further authorized to make, publish and enforce rules and regulations to these ends not inconsistent with law and to define, prescribe and authorize the use of uniform terminology to apply to varying degrees of accreditation and certification. The board is further authorized to adopt the STANDARD BREEDING PLAN of accreditation and certification sponsored by the United States Department of Agriculture or any other plan sponsored by said department and to cooperate with said department in matters of poultry improvement. The board is further authorized to prescribe and collect fees for inspection and supervision and to prescribe and furnish labels, leg bands and certificates of accreditation and certification and such other supplies as may be necessary and to prescribe and collect fees for the same. The board is further authorized to do such other things as it may deem needful and expedient to improve poultry breeding and practices and to give effect to this act. (Act Apr. 25, 1931, c. 408, §3.)

5460-10. Advertising.—Owners of accredited and certified poultry breeding flocks and hatcheries shall have the right to use the terminology prescribed by the board in their literature and advertising and on shipping labels, provided that the board may by regulation require the submission of all or any part of such literature and advertising matter to it for review and approval before publication or issuance. (Act Apr. 25, 1931, c. 408, §4.)

5460-11. Disposition of fees.—All fees collected under this act shall be deposited in the state treasury and shall be placed in a special fund to be known as the "Poultry Improvement Board Fund," available for and from which expense of the board in carrying out this act shall be paid. (Act Apr. 25, 1931, c. 408, §5.)

5460-12. To cooperate with the state livestock sanitary board.—The State Livestock Sanitary Board shall cooperate with the Minnesota Poultry Improvement Board in all ways consistent with law, provided that

the State Livestock Sanitary Board shall have exclusive jurisdiction and control over all matters pertaining to poultry diseases and the control and eradication thereof. And the State Livestock Sanitary Board is hereby authorized to formulate, adopt and enforce rules and regulations whereby owners of poultry breeding flocks may, upon agreement with the said board, have such flocks examined, tested and officially designated as tested, approved or accredited free from bacillary white diarrhea, tuberculosis or other communicable infectious diseases when and as approved methods for official testing for such other diseases may be adopted by the said board; provided there are necessary personnel and available funds appropriated for the use of the said board in making such tests and inspections. In order to distinguish eradication of specific diseases, the abbreviation for the disease shall be prefixed to the words "tested," "approved" or "accredited," as "T. B. Tested," "T. B. Approved" and "T. B. Accredited" for tuberculosis and "B.W.D. Tested," "B.W.D. Approved" and "B.W.D. Accredited" for bacillary white diarrhea. (Act Apr. 25, 1931, c. 408, §6.)

5460-13. Products to be labeled.—All poultry and poultry products shipped under the authority of this act shall be uniformly labelled with designs prescribed and furnished by the Minnesota Poultry Improvement Board, provided that all labeling for testing, approval and accreditation as to disease shall first be approved by the State Livestock Sanitary Board. (Act Apr. 25, 1931, c. 408, §7.)

5460-14. Certain advertising prohibited.—No person, firm, association, partnership or corporation shall use in literature, advertising material or on shipping labels or otherwise the words "tested," "approved," "accredited" or "certified" in conjunction with either the word "state" or the word "Minnesota" or both of them as related to a poultry hatchery or a poultry breeding flock except under the authority of this act. (Act Apr. 25, 1931, c. 408, §8.)

Advertisements concerning testing of chicks giving false impression of inspection and supervision by State of Minnesota violated this section. Op. Atty. Gen., Mar. 12, 1934.

Word "state" cannot be used in conjunction with words "blood tested" where no agreement has been entered into with livestock sanitary board. Op. Atty. Gen. (641b), Mar. 19, 1935.

5460-15. May cancel certificates.—In his discretion, the secretary and executive officer of the Minnesota Poultry Improvement Board may cancel any certifi-

cate of accreditation or certification issued under the authority of his board, and likewise the secretary and executive officer of the State Livestock Sanitary Board may cancel any certificate of testing, approval or accreditation issued under the authority of his board for violation of this act or any rule or regulation adopted hereunder; and any person, firm, association, partnership or corporation who shall violate any provision of this act or any regulation adopted hereunder shall be guilty of a misdemeanor. (Act Apr. 25, 1931, c. 408, §9.)

Sec. 10 of the act makes an appropriation for fiscal year ending June 30, 1932.

5460-16. Effective September 1, 1931.—This act shall take effect and be in force from and after the first day of September, 1931. (Act Apr. 25, 1931, c. 408, §11.)

5460-17. The Livestock Sanitary Board may maintain quarantine.—The State Livestock Sanitary Board is hereby authorized and empowered to establish and maintain, at the owner's expense, a quarantine of any or all domestic animals and/or poultry imported into the state whenever in its judgment such quarantine is necessary to protect the health of the domestic animals or poultry of the state. Such quarantine shall be established by the adoption of a resolution declaring such quarantine and specifying the terms, conditions, scope and application thereof, and the publication of such resolution as provided for the publication of rules and regulations promulgated by such Board. (Act Feb. 21, 1933, c. 33, §1.)

5460-18. May not break quarantine.—Upon the establishment of such quarantine, it shall be unlawful for the owner or the person having the custody or control of the animals or poultry subject to such quarantine to remove them or any of them from the premises where they first come to rest within the state after the interstate shipment or transportation is completed, until released by authority of the State Livestock Sanitary Board. (Act Feb. 21, 1933, c. 33, §2.)

5460-19. Violation a misdemeanor.—Any person removing any animal or any poultry while subject to quarantine as herein provided in violation of the provisions hereof, shall be guilty of a misdemeanor. (Act Feb. 21, 1933, c. 33, §3.)

5460-20. Definition.—The word "person" as used herein shall mean any person, firm or corporation. (Act Feb. 21, 1933, c. 33, §4.)

CHAPTER 30A

Inspection of Apiaries

5461. State inspector.—Deputies.

Determination by the appointing power on question of fact as to whether appointee has had such practical experience as to render him eligible as a practical apiarist, will be binding on the courts in the absence of a clear abuse of judicial discretion. Op. Atty. Gen., June 10, 1931.

5471. Compensation of inspector and deputies.

Deputy inspectors are entitled to be reimbursed for expenses incurred in the performance of their duties. Op. Atty. Gen., June 10, 1931.

CHAPTER 31

Inspection of Steam Vessels and Boilers

5474. District boiler inspector.—Appointment, etc.

District boiler inspector from 1905 to 1919 was a state employee. Op. Atty. Gen., Oct. 16, 1933.

State boiler inspector has authority to inspect air pressure vessels on trolley cars in connection with their brakes. Op. Atty. Gen. (34g-12), July 13, 1934.

5475. Who eligible.

A janitor of a school may also be employed as a state boiler inspector. Op. Atty. Gen., Aug. 18, 1931.

5476. Deputy inspectors.

Op. Atty. Gen., Aug. 18, 1931; note under §5475.

5480. Examinations of master and pilots, etc.

Operator of gasoline launch on inland water must obtain permit from State boiler inspector and conservation commission in certain cases. Op. Atty. Gen., Mar. 21, 1934.

A village has no authority to regulate the operation of boating, bathing, etc., in a public lake. Op. Atty. Gen. (278d-1), Aug. 25, 1934.

5481. Inspection.

Minnesota general hospital should not discriminate against indigent patients. Op. Atty. Gen. (1001c), June 23, 1937.