

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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companies operated for the production of power, except as may be necessary in emergencies to protect the health and safety of the people of the state. (Apr. 26, 1937, c. 468, §17.)

6602-68. Inconsistent acts repealed.—All acts and parts of acts inconsistent herewith are hereby superseded, modified, or amended, so far as necessary, to give effect to the provisions of this act except that nothing in this act shall be construed so as to interfere with the exercise of the lawful jurisdiction of the government of the United States or its duly constituted agencies over the waters of the state and provided that nothing in this act shall in any way supersede, alter, or amend the provisions of Mason's Minnesota Statutes, 1927, Chapter 40, Section 6463, and Chapter 412, Laws 1933. (Apr. 26, 1937, c. 468, §18.)

6602-69. Provisions severable.—The various provisions of this act are declared to be severable. If any provisions thereof shall be declared unconstitutional the remaining provisions shall remain in full force and effect. (Apr. 26, 1937, c. 468, §19.)

COMMON LAW
DECISIONS RELATING TO WATERS
AND WATER COURSES
IN GENERAL

1. Use of water.

Use made of water of lake by golf club for sprinkling golf course, maintained by it on its premises bordering on lake solely for pleasure and recreation of its members, was not for any commercial or artificial use or purpose, and was not unlawful or unreasonable. *Meyers v. L.*, 197 M241, 266NW861. See *Dun. Dig.* 10177.

What can a riparian proprietor do? 21MinnLawRev 512.

CHAPTER 43

Logs and Lumber

6604. Duty of surveyor general.

Authority to scale state timber is still vested in the surveyor general of logs and lumber, but is now subject to supervision of commissioner of conservation and director of division of forestry instead of state auditor. *Op. Atty. Gen.*, June 27, 1933.

6613. Posting scales—Scribner's rule, etc.

Scribner rule prescribed by statute and not revised Scribner Decimal C log rule is to be used by surveyor general when not otherwise agreed on. *Op. Atty. Gen.*, Dec. 4, 1933.

Contracting private parties need not consider legal rule in purchase or sale of logs, law not requiring official scaling in private sale. *Id.*

In private sale of logs, in case log rule has not been agreed upon, true quantity and log scales made by competent persons would be best available evidence, but any scaling done by surveyor general would constitute strong showing to court. *Id.*

6627. Transfers—Logs, etc., when deemed abandoned.

Surveyor general of logs and lumber may need to remove the dead-head logs and other timber endangering navigation, using funds provided therefor by the state emergency relief administration. *Op. Atty. Gen.* (429), Aug. 19, 1935.

CHAPTER 44

Drainage

STATE DRAINAGE COMMISSION [DEPARTMENT OF DRAINAGE AND WATERS]

6634. Department of drainage and waters.

Laws 1931, c. 186, ante, §§53-23a to 53-231, creates the Department of Conservation and transfers to it the powers of the Department of Drainage and Waters.

6635. Powers of commissioner of drainage and waters.—Subd. (a).

The commissioner of drainage and waters established by this act, shall have power to construct as hereinafter provided, any ditch, drain or other watercourse within the State of Minnesota, and such ditch, drain or other watercourse may in whole or in part follow and consist of the bed of any creek, stream or river, whether meandered or not, and he may widen, deepen, straighten, change, lower or drain the channel or bed of any creek, river, lake or other natural watercourse, whether navigable or whether meandered or not, and may construct new and additional outlets to any marshy, shallow or meandered lake for the purpose of draining the same, and may follow and extend the same into or through any city or village within the state far enough to secure a sufficient fall and flow of water to reasonably effectuate the purpose for which the work is extended, and may confine any such creek, river or other natural watercourse by means of dykes, levees and embankments to its natural or artificial bed, as laid out, and shall also, whenever it shall appear to his satisfaction that the drainage of any territory may be made more effective by the construction and maintenance of dams, or other works, for retaining and controlling the flood waters, tributary to such territory, have the power to construct or acquire such dams or other work, and flowage rights therefor, and to maintain and operate the same.

Provided, that when in any such proceedings, the waters of any creek, river or other watercourse are diverted from their natural bed by such artificial ditch

or drain, such ditch or drain shall as nearly as practicable, follow the general direction of such creek, river or watercourse, and terminate therein.

And, provided further, that no meandered lake shall be drained under the authority of this act, except in case such lake is normally shallow and grassy and of a marshy character or except in case such meandered lake is no longer of sufficient depth and volume to be capable of any beneficial public use of a substantial character for fishing, boating or public water supply.

Provided further, that no meandered lake shall be drained or lowered under the authority of this act unless petitioned for by at least sixty per cent of the legal voters residing within four miles of such lake, who are freeholders, whose lands are affected as shown by the viewers' report and filed in the office of the clerk of the district court of the county in which such proceedings are had.

Subd. (b). Said commissioner of drainage and waters in addition to the authorities now granted under the provisions of said Chapter 44 of the General Statutes of 1913 [same chapter in Mason's Minn. St. 1927], is hereby authorized to make all necessary investigations to ascertain and determine the topographical features of the various watersheds of the state, viz.: the several tributaries of the Minnesota and Mississippi Rivers and other rivers in the state, and ascertain and determine the works necessary to secure proper drainage outlet for the lands in each basin, and the construction of the necessary works to improve such outlet and control flood waters therein, including as near as can be ascertained, the probable run-off waters of each of said basins and the important streams entering therein and shall ascertain and secure the necessary facts to determine what streams have natural facilities adapted to the creation of water power and the extent of the horsepower that can be secured, or other information that said commis-