

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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CHAPTER 52

Partition Fences

7248. Fence viewers.

Establishment of center of section of land. 172M388, 215NW426.

County board may compel construction of party line fences in territory where townships have been dissolved. Op. Atty. Gen. (434a-4), Sept. 24, 1936.

7250. Occupants to maintain.

Land in part woodland, meadow and slough, adjoining other lands not under plow, held not "improved" so as to impose obligation to build joint line fence. Op. Atty. Gen., Apr. 28, 1932.

A village must maintain its share of partition fence as to land outside village limits used in connection

with water system of village operating in both a proprietary capacity and governmental capacity. Op. Atty. Gen., Mar. 24, 1934.

There can be no partition fence between land separated by a cartway established either under the statute or by dedication as a public road, but if third person using the way has merely a license, there may be a partition fence. Op. Atty. Gen. (377b-10(e)) (631h), July 5, 1934.

7266. Viewers in counties not divided.

County board may compel construction of party line fences in territory where townships have been dissolved. Op. Atty. Gen. (434a-4), Sept. 24, 1936.

CHAPTER 53

Estrays and Beasts Doing Damage

BEASTS DOING DAMAGE

7274. Who may distraint.

Where federal government purchased and branded distressed cattle in drouth areas and turned them over to state emergency relief administration for grazing and they were contracted out to individuals under an agreement that they be grazed and cared for, owner of property damaged by such animals may not hold them in attempt to force collection of damages; such cattle belonging to the state. Op. Atty. Gen. (400a), Sept. 28, 1934.

7275. Notice to owner.

Notice is not waived by a general statement of the owner of the animals to one taking them up, "to have the damages appraised and he would pay for them." *Pruka v. M.*, 182M421, 234NW641. See Dun. Dig. 277, 10134.

The notice required in proceedings to distraint animals doing damage is a written notice and is jurisdictional. *Pruka v. M.*, 182M421, 234NW641. See Dun. Dig. 277.

MISCHIEVOUS DOGS

7285. Keeping after notice.

Owner of dog becomes liable on receiving notice by seeing the forbidden act or by information from any other person, oral or written. Op. Atty. Gen., Oct. 30, 1929.

Section is a criminal statute and may be enforced in justice court. Op. Atty. Gen. (146f), Dec. 9, 1936.

7286. Dogs worrying livestock or poultry.

Dogs may be killed under statutory authority when they are nuisances, G. S. 1923, §7287, or when they menace live stock or poultry, G. S. 1923, §7286, as amended. 175M368, 221NW430.

Common-law rule is not abrogated by this section. 175M368, 221NW430.

7287. Nuisance, when—Procedure.

174M457, 219NW770.

Dogs may be killed under statutory authority when they are nuisances, G. S. 1923, §7287, or when they menace live stock or poultry, G. S. 1923, §7286, as amended. 175M368, 221NW430.

Common-law rule is not abrogated by this section. 175M368, 221NW430.

RUNNING AT LARGE OF CERTAIN ANIMALS

7295. Permitting to run at large unlawful.

Where plaintiff was injured at night by driving his automobile against carcass of a horse which had just been killed in a collision with a truck, jury might find that negligent permitting of horse at large was a proximate cause of injury to plaintiff. *Wedel v. J.*, 196M170, 264NW689. See Dun. Dig. 277.

In action for injuries received by automobile driver colliding with carcass of horse in the nighttime, truck driver who ran into and killed horse and left it on the highway held confronted with an emergency and was not negligent as a matter of law in attempting to swerve around horse instead of applying his brakes, and he was not negligent in failing to arrange for removal of the horse or placing a warning of its presence where he was very badly injured and required prompt medical attention to save his life. *Id.*

7297-1. County board to license dogs.—The Board of County Commissioners of any county, by a ma-

majority vote, may provide for the licensing and regulating the running at large of dogs, and create a live-stock indemnity fund to be handled and disbursed as hereinafter set forth. After the plan therefor shall have been in operation in any county for at least one year, the Board of County Commissioners thereof may by a majority vote, abandon the same. In any county containing a city of the first class or a city of the second class located in more than one county the board of county commissioners shall exclude from the operation of this act such city of the first class or a city of the second class located in more than one county. (Act Apr. 21, 1931, c. 295, §1; Jan. 24, 1936, Ex. Ses., c. 69.)

7297-2. Owners to obtain licenses.—The owners of all dogs six months old or over, except dogs kept in kennels, in all counties providing for the licensing and regulating the running at large of dogs as provided for in Section one of this act, shall annually obtain a license therefor, as herein provided, and it shall be unlawful for the owner of any dog six months old or over to allow such dog to run at large without being so licensed or without wearing the license tag herein provided for. (Act Apr. 21, 1931, c. 295, §2.)

7297-3. Who are owners.—For the purposes of this act, the term "owner" shall, in addition to its ordinary meaning, include any person who keeps or harbors a dog. (Act Apr. 21, 1931, c. 295, §3.)

7297-4. County auditor to issue license.—The owner of a dog for which a license shall be required, shall on or before the 15th day of July, of each year apply to the auditor of the county in which such owner resides for a license for each dog owned by him. (Act Apr. 21, 1931, c. 295, §4.)

7297-5. Application.—Application for license shall be made after July 15th and at any time, for a dog which has come into the possession or ownership of the applicant or which has reached the age of six months after said date. (Act Apr. 21, 1931, c. 295, §5.)

7297-6. Contents of application.—Such application shall be in writing on blank provided therefor by the county auditor and shall state the breed, sex, age, color, markings and name, if any, of the dog, and if a female, whether or not spayed, and the address of the owner and shall be signed by him, or a duly authorized agent of such owner. (Act Apr. 21, 1931, c. 295, §6.)

7297-7. License fee.—The annual license fee shall be \$1.00 for each male or spayed female dog and