

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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9455-12. Act to be remedial.—This Act is declared to be remedial; its purpose is to settle and to afford relief from uncertainty and insecurity with respect to rights, status and other legal relations; and is to be liberally construed and administered. (Act Apr. 17, 1933, c. 286, §12.)

9455-13. Definition.—The word "person" wherever used in this Act, shall be construed to mean any person, partnership, joint stock company, unincorporated association, or society, or municipal or other corporation of any character whatsoever. (Act Apr. 17, 1933, c. 286, §13.)

9455-14. Provisions separable.—The several sections and provisions of this Act except sections 1 and 2, are hereby declared independent and severable, and the invalidity, if any, of any part or feature thereof

shall not effect or render the remainder of the Act invalid or inoperative. (Act Apr. 17, 1933, c. 286, §14.)

9455-15. To make law uniform.—This Act shall be so interpreted and construed as to effectuate its general purpose to make uniform the law of those states which enact it, and to harmonize, as far as possible, with federal laws and regulations on the subject of declaratory judgments and decrees. (Act Apr. 17, 1933, c. 286, §15.)

9455-16. Uniform declaratory judgments act.—This Act may be cited as the Uniform Declaratory Judgments Act. (Act Apr. 17, 1933, c. 286, §16.)

Sec. 17 of act Apr. 17, 1933, cited, provides that the act shall take effect from its passage.

CHAPTER 78

Juries

9458. Number to be drawn.

Trial court did not abuse discretion in discharging entire jury panel and drawing new venire in murder case. *State v. Waddell*, 187M191, 245NW140. See Dun. Dig. 5239a.

9460. How drawn and summoned.

Laws 1929, c. 7, repeals Sp. Laws 1883, c. 314, as to making up jury lists in Washington county.

9468. Selection of jurors.—The county board, at its annual session in January, shall select, from the qualified voters of the county, seventy-two persons to serve as grand jurors, and one hundred and forty-four persons to serve as petit jurors, and make separate lists thereof, which shall be certified and signed by the chairman, attested by the auditor, and forthwith delivered to the clerk of the district court. If in any county the board is unable to select the required number, the highest practicable number shall be sufficient. In counties where population exceeds ten thousand no person on such list drawn for service shall be placed on the next succeeding annual list, and the clerk shall certify to the board at its annual January session the names on the last annual list not drawn for service during the preceding year, nor shall any juror at any one term serve more than thirty days and until the completion of the case upon which he may be sitting; provided however that the Court may with the consent of any such juror or jurors and with the consent of any parties having matters for trial after such 30 day period has expired hold and use such jurors so consenting to try and determine any jury cases remaining to be tried at such term between parties so consenting. And in counties having two or more terms of court in one year, after the jurors have been drawn for any term of such court, the clerk shall strike from the original list the names of all persons who were drawn for such term, and notify the board thereof, which at its next session shall likewise select and certify an equal number of new names, which shall be added by such clerk to the names in the original list. If such list is not made and delivered at the annual meeting in January, it may be so made and delivered at any regular or special meeting thereafter. Whenever at any term there is an entire absence or deficiency of

jurors whether from an omission to draw or to summon such jurors or because of a challenge to the panel or from any other cause, the court may order a special venire to issue to the sheriff of the county, commanding him to summon from the county at large a specified number of competent persons to serve as jurors for the term or for any specified number of days, provided that before such special venire shall issue the jurors who have been selected by the county board and whose names are still in the box provided for in Section 9462 of said Mason's Minnesota Statutes, shall first be called and upon an order of the court the number of names required for such special venire shall be drawn from said box in the manner required by law and the jurors so drawn, shall be summoned by the sheriff as other jurors; and as additional jurors are needed successive drawings shall be ordered by the court until the names contained in said box have been exhausted. (R. L. '05, §4336; G. S. '13, §7971; '17, c. 485, §1; Feb. 13, 1929, c. 13; Apr. 20, 1931, c. 218.)

Where party to cause was member of jury panel it was error to deny continuance or the calling in of other jurors not on panel. 179M557, 230NW91.

Statute contemplates the striking of the names drawn without regard to actual service. *Op. Atty. Gen.*, April 30, 1931.

9469-1. Juries in certain cities.—In all counties of this state now or hereafter having a population of more than 400,000 the jury in civil actions shall consist of six persons; provided, that any party may have the right to increase the number of jurors to twelve by paying to the clerk a jury fee of two dollars at any time before the trial commences. Failure to pay such jury fee shall be deemed a waiver of a jury of twelve. ('27, c. 345, §1, eff. May 1, 1927; Apr. 18, 1929, c. 236, §1.)

9469-2. Same—Jury of six.

The text of this and the next succeeding section is reenacted by Laws 1929, c. 236, but the title of the act purports to amend "section 1, chapter 345, Laws of 1927," set forth ante as §9469-1. Inasmuch as no change is made in sections 2 and 3, except that the closing words of section 2 are "the jury," instead of "a jury," the insufficiency of the title is probably immaterial.

9469-3. Same—Challenges.

See note under §9469-2.

CHAPTER 79

Costs and Disbursements

9470. Agreement as to fees of attorney—Etc.

2. Right to costs statutory.

Costs were unknown at common law and depend upon statutory authority. *State v. Tift*, 185M103, 240NW354. See Dun. Dig 2226.

10. Contract with attorney.

Burden was upon attorney to prove that his services were rendered under circumstances from which a promise to pay should be implied. *Ertsgaard v. B.*, 183M339, 237NW1. See Dun. Dig. 702(93).

Fact that court directed payment of attorney's fees to plaintiffs' attorneys instead of to them for plaintiffs was not error nor important. *Regan v. B.*, 196M243, 264NW 803. See Dun. Dig. 695.

The sovereign may not be sued without its consent, but where government recognized existence of legal claims founded upon obligations imposed by virtue of Transportation Act and while Director General of Railroads was in charge, a remedial act passed to reimburse property owners who had suffered losses because of negligent operation of railroad is "debt legislation" not "favor legis-