

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 95

Crimes Against the Sovereignty of the State

9970. Wilful neglect of official duty.

Village officers refusing to comply with section 1175 requiring publication of annual financial statement, would violate this section. Op. Atty. Gen., Sept. 30, 1931.

Mayor of Minneapolis has no power to remove civil service commissioner from office. Op. Atty. Gen., July 12, 1932.

Proper procedure with reference to improper conduct of justice of peace would be to advise with county attorney. Op. Atty. Gen., Jan. 24, 1933.

President of water, light, power and building commission, may be compelled by mandamus to sign contract voted by commission. Op. Atty. Gen. (469b-6), Apr. 11, 1934.

This section is violated by mayor who refuses to sign orders audited and allowed by city council. Op. Atty. Gen. (361f), Jan. 2, 1936.

City council has no authority to remove members of water and light commission, at least in absence of a conviction of an offense involving violation of official oath. Op. Atty. Gen. (358e-1), May 15, 1937.

9971. Acting in public office without having qualified.

Where a justice of the peace was elected in 1929 and due to the change in date of village elections his term expired and no successor was elected, and during such vacancy he continued to act and collect fines which he refused to turn over to the village, he might technically be prosecuted under §9971, but preferably under §10302. Op. Atty. Gen., Jan. 6, 1932.

CHAPTER 96

Crimes Against Public Justice

BRIBERY AND CORRUPTION

9982. Bribery of public officer or legislator.

This section is constitutional. 176M308, 223NW144. Variance between allegations and proof; admissibility of evidence. 180M450, 231NW225.

9983. Asking or receiving bribes.**¾. In general.**

Person convicted under §9983 in 1925 and incarcerated in the state penitentiary is not entitled to restoration of civil rights under §9944. Op. Atty. Gen. (184i), Mar. 29, 1935.

2. Indictment.

Indictment charging that defendant did "ask, agree to receive, and receive" a bribe, was not duplicitous or repugnant, and state need not elect. 178M437, 227NW497.

Proof of acceptance of credit on price of automobile not fatal variance from allegation of acceptance of money. 178M437, 227NW497.

Admissibility of evidence, and variance between allegations and proof. 180M450, 231NW225.

RESCUES AND ESCAPES

10005. Taking property from office.

Owner of growing crops levied on by officer violates this section by feeding the crops to his live stock. Op. Atty. Gen., Mar. 9, 1929.

10012-1. Jumping bail a gross misdemeanor.—

Any person charged with or convicted of a felony who has been admitted to bail or released on recognizance in connection with such felony, and who wilfully fails to appear as required and thereby incurs a forfeiture of his bond or recognizance is guilty of a gross misdemeanor, if he does not appear or surrender himself within thirty days thereafter. (Act Apr. 17, 1935, c. 196.)

PERJURY AND OTHER CRIMES

10016. Perjury defined.**1. What constitutes.**

No conviction for perjury for untrue answers to questions after plea of guilty. 171M246, 213NW900.

5. Evidence.

Evidence held to sustain verdict of guilty of perjury. State v. Olson, 186M45, 242NW348. See Dun. Dig. 7476.

10018. Knowledge of materiality not necessary.

No conviction for perjury for untrue answers to questions after plea of guilty. 171M246, 213NW900.

10028. Neglect of duty by officers, trustees, etc.

If a recorder of a village fails to perform his duties, he may be prosecuted under this section, and his conviction would create a vacancy in his office under section 6953(5). Op. Atty. Gen., Oct. 20, 1931.

This section is violated by mayor who refuses to sign orders audited and allowed by city council. Op. Atty. Gen. (361f), Jan. 2, 1936.

10030. Arrest without authority.

Railroad held liable for unlawful arrest by special agent at depot. 176M203, 223NW94.

If an intoxicating liquor inspector is rightfully within a place where non-intoxicating liquors are sold, he may seize intoxicating liquor for purpose of using same for evidence in a prosecution, but he may not search premises for intoxicating liquors, and in such case a search warrant is not necessary. Op. Atty. Gen. (218f), Feb. 5, 1935.

10033. Resisting public officer.

A sheriff cannot enter a home by force for purpose of levying an execution, but debtor is guilty of resisting an officer in refusing to give up the property. Op. Atty. Gen. (390a-6), Feb. 7, 1935.

State fire marshal may not use force to effect entry on premises for purpose of making inspection, but owner padlocking premises so that inspection may not be made is guilty of offense of resisting, delaying and obstructing a public officer in discharge of his duties. Op. Atty. Gen. (197c), May 9, 1935.

10034. Compounding crimes.

Complaint held not bad for duplicity, and evidence held to support conviction. 181M106, 231NW804.

10044. Misconduct by attorneys.

This section trebles damages in actions therein referred to, but does not create any new cause of action. 181M322, 232NW515. See Dun. Dig. 674.

10047. Punishment for prohibited acts.

This section provides penalties for those sections in Laws 1931, c. 70, for which no penalty is provided in section 9 of such act. Op. Atty. Gen., Oct. 19, 1931.

10052. Other false certificates.

Civil liability for false certificate as to tax liens: 181M334, 232NW359. See Dun. Dig. 2314a.

CHAPTER 97

Crimes Against the Person

HOMICIDE

10065. Defined and classified.

Evidence that defendant was the possessor of a weapon of the kind with which a homicide was committed is not rendered incompetent by reason of the fact that it tends incidentally to prove the commission of other and unrelated offenses. 172M106, 214NW782.

State's rebuttal evidence was admissible. 172M106, 214NW782.

A conviction for homicide cannot stand on evidence of motive with nothing more; there must be enough additional evidence so that whole shows guilt beyond reasonable doubt. State v. Waddell, 187M191, 245NW140. See Dun. Dig. 4247.

10066. Proof of death, and of killing by defendant.

Burden is upon state to prove each element of corpus delicti beyond a reasonable doubt, and necessary elements are death of a human being and that a criminal