1940 Supplement

To

Mason’s Minnesota Statutes

1927

(1927 to 1940)

(Superseding Mason’s 1931, 1934, 1936 and 1938 Supplements)

Containing the text of the acts of the 1929, 1931, 1933, 1935, 1937 and 1939 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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10536-3. Violation a gross misdemeanor.—Any person or persons, firm or corporation violating the provisions of this Act shall be guilty of a gross misdemeanor and upon conviction shall be punished by a fine of not more than $1,000.00 or by imprisonment in the county jail for a period not to exceed one year, or by both such fine and imprisonment. (Act Apr. 21, 1937, c. 287, §2.)

10536-4. All Acts and parts of Acts inconsistent herewith are repealed. (Act Apr. 21, 1937, c. 287, §3.)

10536-5. Visitors at tourist camps, etc., to register.—Every person operating within this State a tourist camp, cabin camp or other resort furnishing sleeping or over-night stopping accommodations for transient guests, shall provide and keep thereat a suitable guest register for the registration of all guests provided with sleeping accommodations or other over-night stopping accommodations at such camp or resort; and each and every such guest shall be registered therein. Upon the arrival of every such guest, the operator of such camp or resort shall require him to enter in such register, or enter for him therein, in separate columns provided in such register, the name and home address of the guest and each and every person, if any, with him as a member of his party; and, traveling by motor vehicle, the make of such vehicle, registration number, and other identifying letters or characters appearing on the official number plate carried thereon, including the name of the State issuing such official plate. (Apr. 12, 1937, c. 186, §1.)

10536-6. Shall register upon arrival.—Every person upon arriving at any touring camp, cabin camp or other resort described in this act and applying for guest accommodations therein of the character described in the preceding section shall furnish to the operator or other attendant in charge at such camp or resort the registration information necessary to complete his registration in accordance with the requirements of Section 1 hereof, and shall not be provided with accommodations unless and until such information shall be so furnished. (Apr. 12, 1937, c. 186, §2.)

10536-7. Registration records to be open for inspection of officers.—The registration records herein provided for shall be open to the inspection of all law enforcement officers of the State and its subdivisions. (Apr. 12, 1937, c. 186, §3.)

10536-8. Violation a misdemeanor.—Every person who shall violate any of the provisions of this act shall be guilty of a misdemeanor. (Apr. 12, 1937, c. 186, §4.)


10536-10. 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 as evidence in the prosecution of such offense, in the same manner as he would seize intoxicating liquors, and in such case a search warrant is not necessary. Op. Atty. Gen. (218f), Feb. 6, 1934.

10536-11. County board to license shows, etc.—The board of county commissioners of the several counties of this state are hereby authorized to license and regulate itinerant shows, carnivals, circuses, endurance contests and exhibitions of any nature whatsoever except those prohibited by Laws 1935, Chapter 228 [§§10267-1, 10267-2]. Provided, however, that this act shall not apply to shows, carnivals, circuses, endurance contests and exhibitions held within the incorporated limits of a village, borough or city. (Apr. 21, 1937, c. 331, §1.)

10536-12. County board to fix fees.—The fee for such license shall be fixed by the board of county commissioners in such amount as the board shall deem advisable. (Apr. 21, 1937, c. 331, §2.)

10536-13. May require bond.—The board of county commissioners may require, as a condition to the granting of such license, the posting of a penal bond in such amount as it shall determine. (Apr. 21, 1937, c. 331, §3.)

10536-14. Applications—forms.—Application for such license shall be made on such form as the board of county commissioners shall determine. Upon the approval of such application and the payment of the license fee and the posting of such bond as may be required the county auditor shall issue the license. (Apr. 21, 1937, c. 331, §4.)

10536-15. Taking part in unlicensed show, etc., to be misdemeanor.—Any person, partnership, association or corporation who conducts or takes part in any itinerant show, carnival, circus, endurance contest or exhibition not licensed as herein provided, shall be guilty of a misdemeanor. (Apr. 21, 1937, c. 331, §5.)

10536-16. Exceptions.—The provisions of this act shall not apply to any itinerant show, carnival, circus, endurance contest or exhibition held in connection with any agricultural association fair. (Apr. 21, 1937, c. 321, §6.)

10536-17. Blending of petroleum products prohibited.—The blending or mixing of petroleum products, such as kerosene, distillate, fuel oil or any by-product of crude oil or coal upon which gasoline tax has not already been paid or liability therefor reported to the Chief Oil Inspector, with gasoline upon which a tax has been paid or liability assessed therefor by the Chief Oil Inspector, is prohibited. (Act Apr. 22, 1939, c. 408, §1.)

10536-18. Same — Violations — Penalties.—Violation of this act shall constitute a gross misdemeanor and be punished accordingly. (Act Apr. 22, 1939, c. 408, §2.)

CHAPTER 104
Criminal Procedure

SEARCH WARRANTS

10537. When issued. There was no error in condemning and destroying slot machines, though there was no search warrant. 170M 346, 223NW465.


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 as evidence in the prosecution of such offense, in the same manner as he would seize intoxicating liquors, and in such case a search warrant is not necessary. Op. Atty. Gen. (218f), Feb. 6, 1934.

State law does not provide for search and seizure of intoxicating liquors, and it would be necessary for local ordinance to provide therefor. Op. Atty. Gen. (218f-3), Dec. 27, 1933.

10540. Property seized—How kept and disposed of.—Whenever, any officer, in the execution of a search warrant, shall find any stolen property, or any other things for which search is allowed by law, the same shall be safely kept by direction of the court or magistrate, so long as may be necessary for the purpose of being produced as evidence on any trial, and then the stolen property shall be returned to the owner thereof, and the other things seized destroyed under the direction of the court or magistrate. Any money found in gambling devices when seized shall be paid into the county treasury, or, if such gambling devices are seized by a police officer of a municipality, such money shall be paid into the treasury of such muni-
Misdemeanor cases within the discretion of a governor. (R. 11. '06, §5193; G. S. '13, §9036; Apr. 13, 1929, c. 177.)

Generally speaking, extradition on misdemeanor is not confined to the punishment of the crime, but permits extradition in misdemeanor cases within the discretion of a governor. Op. Atty. Gen. (904a-3), Nov. 1, 1924.


3. Who is a fugitive from justice.

Father and husband, guilt of abandoning wife and child, when he stopped payments to them for their support, could not be extradited where he was not in the state when the crime was committed, though by falling to make payments he committed a crime within the state. Op. Atty. Gen. (504a-1), Apr. 12, 1934.

Minor charged with being delinquent cannot be extradited. Governor's issuance of extradition warrant raises presumption which controls until rebutted that named person was convicted and sentenced in state in which the crime was committed. State v. Moeller, 191M193, 253NW668. See Dun. Dig. §2700.

Discharge by writ of habeas corpus of a prisoner held upon an extradition warrant for reason that courts of one state hold that he is not a fugitive from justice is not res judicata in habeas corpus proceedings in another state. State v. Wall, 187M246, 244NW811. See Dun. Dig. §2703, 5207.

FRESH PURSUIT ACT

This act was adopted by Colorado, Maine, Michigan, Minnesota, South Dakota, Tennessee, and Wisconsin.

10547-1. Uniform law on fresh pursuit. Any member of a duly organized state, county or municipal peace unit of another state of the United States who enters this state in fresh pursuit, of a person in or on the premises of this state, after a rendition warrant issued by the Governor of this state has been signed by the Governor, may arrest and hold in custody a person on the ground that he is believed to have committed a felony in this state, provided, however, the rights extended by this section shall be extended only to those states granting these same rights to peace officers of this state who may be in fresh pursuit of suspected criminals in such reciprocating states. (Act Mar. 17, 1939, c. 64, §1.)
rant by the Governor of this state, or admit him to bail for such purpose.

10547-3. Construction of act.—Section 1 of this act shall not be construed so as to make unlawful any arrest in this state which would otherwise be lawful.

10547-4. State shall include District of Columbia.—For the purposes of this act the word "State" shall include the District of Columbia.

10547-5. Definition.—The term "fresh pursuit" as used in this act shall include fresh pursuit as defined by the common law, and also the pursuit of a person who has committed a felony or who is reasonably suspected of having committed a felony. It shall also include the pursuit of a person suspected of having committed a supposed felony, though no felony has actually been committed, if there is reasonable ground for believing that a felony has been committed. Fresh pursuit as used herein shall not necessarily imply instant but pursuit without unreasonable delay.

10547-6. Secretary of State to certify copies to other states.—Upon the passage and approval by the Governor of this act it shall be the duty of the Secretary of State (or other officer) to certify a copy of this act to the Executive Department of each of the states of the United States.

10547-7. Provisions severable.—If any part of this act is for any reason declared void, it is declared to be the intent of this act that such invalidity shall not affect the validity of the remaining portions of this act.

10547-8. Uniform Act on Fresh Pursuit, to be known as.—This act may be cited as the Uniform Act on Fresh Pursuit.

UNIFORM CRIMINAL EXTRADITION ACT

This act was adopted by Alabama, Arizona, Arkansas, Idaho, Indiana, Kansas, Maine, Maryland, Massachusetts, Michigan, Montana, Nebraska, New Hampshire, New Jersey, New Mexico, New York, North Carolina, Ohio, Oregon, Pennsylvania, South Dakota, Utah, Vermont, Virginia, Wisconsin and Wyoming.

10547-11. Definitions.—Where appearing in this act, the term "Governor" includes any person performing the functions of Governor by authority of the law of this state. The term "Executive Authority" includes the governor, and any person performing the functions of governor in a state other than this state. The term "State," referring to a state other than this state, includes any other state or territory, organized or unorganized, of the United States of America.

10547-12. Duties of Governor in extradition matters.—Subject to the provisions of this act, the provisions of the Constitution of the United States controlling, and any and all acts of Congress enacted in pursuance thereof, it is the duty of the governor of this state to issue warrants and deliver up to the Executive Authority of any other state of the United States any person charged in that state with treason, felony, or other crime, who has fled from justice and is found in this state.

10547-13. Demand must be in writing.—No demand of the Executive Authority of any person charged with crime in another state shall be recognized by the governor unless in writing alleging, except in cases arising under section 6, that the accused was present in the demanding state at the time of the commission of the crime, and that he later fled from justice and is found in this state.

10547-14. Attorney General to investigate.—When a demand shall be made upon the governor of this state by the Executive Authority of another state for the surrender of a person so charged with crime, the governor may call upon the attorney general or any prosecuting officer in this state to investigate or assist in investigating the demand, and to report to him the situation and circumstances of the person so demanded, and whether he ought to be surrendered.

10547-15. Extradition by agreement.—When it is desired to have returned to this state a person charged in this state with a crime, and such person is imprisoned or is held under criminal proceedings then pending against him in another state, the governor of this state may agree with the Executive Authority of such other state for the extradition of such person before the conclusion of such proceedings or his term of sentence in such other state, upon condition that such person be returned to such other state at the expense of this state as soon as the prosecution in this state is terminated.

The governor of this state may also surrender on demand of the Executive Authority of any other state any person in this state who is charged in the manner provided in section 23 of this act with having violated the laws of the state whose Executive Authority is making the demand, even though such person left the demanding state involuntarily.

10547-16. May extradite persons causing crime.—The governor of this state may also surrender, on demand of the Executive Authority of any other state, any person in this state charged in such other state in the manner provided in section 3 with committing an act in this state, or in a third state, intentionally resulting in a crime in the state, whose Executive Authority is making the demand, and the provisions of this act not otherwise inconsistent, shall apply to such cases, even though the accused was not in that state at the time of the commission of the crime, and has not fled therefrom.

10547-17. Warrant of arrest.—If the governor decides that the demand should be complied with, he shall sign a warrant of arrest, which shall be sealed with the state seal, and be directed to any peace officer or other person whom he may think fit to entrust with the execution thereof. The warrant must substantially recite the facts necessary to the validity of its issuance.

10547-18. Accused to be turned over to demanding state.—Such warrant of arrest, or the warrant of another person to whom directed to arrest the accused at any time and any place where he may be found within the state and to command the aid of all peace officers or other persons in the execution of the warrant, and to deliver the accused, subject to the provisions of this act to the duly authorized agent of the demanding state.
10547-19. Powers of officer.—Every such peace officer or other person empowered to make the arrest, shall have the same authority, in arresting the accused, to command assistance therein, as peace officers have by law in the execution of any criminal process directed to them, with like penalties against those who refuse their assistance. (Act Apr. 14, 1939, c. 240, §9.)

10547-20. Accused to be taken before court.—No person arrested upon such warrant shall be delivered over to the agent whom the Executive Authority demanding him shall have appointed to receive him unless he shall first be taken forthwith before a judge of a court of record in this state, who shall inform him of the demand made for his surrender and of the crime with which he is charged, and that he has the right to demand and procure legal counsel; and if the prisoner or his counsel shall state that he or they desire to test the legality of his arrest, the judge of such court of record shall fix a reasonable time to be allowed him within which to apply for a writ of habeas corpus. When such writ is applied for, notice thereof, and of the time and place of hearing thereon, shall be given to the prosecuting officer of the demanding state which the accused is in custody, and to the said agent of the demanding state. (Act Apr. 14, 1939, c. 240, §10.)

10547-21. Violation a gross misdemeanor.—Any officer who shall deliver to the agent for extradition of the demanding state a person in his custody under the governor’s warrant, in willful disobedience to the last section, shall be guilty of a gross misdemeanor and, on conviction, shall be fined not more than $1,000 or be imprisoned not more than six months. (Act Apr. 14, 1939, c. 240, §11.)

10547-22. Accused may be confined in jail.—The officer or persons executing the governor’s warrant of arrest, or the agent of the demanding state to whom the prisoner may have been delivered, may, when necessary, confine the prisoner in the jail of any county or city through which he may pass; and the keeper of such jail must receive and safely keep the prisoner until the officer or person having charge of him is ready to proceed on his route, such officer or person being chargeable with the expense of keeping. The officer or agent of a demanding state to whom a prisoner may have been delivered for waiving extradition in such other state, and who is passing through this state, shall give bail or other security for his appearance before the judge or magistrate it appears to the court or magistrate in this state setting forth on the affidavit of any credible person in another state that a person may be lawfully made also by any peace officer or a private person, without a warrant upon reasonable information that the accused stands charged in the courts of a state with a crime punishable by death or imprisonment for a term exceeding one year, but when so arrested the accused must be taken before a judge or magistrate with all practicable speed and complaint must be made against him under oath setting forth the ground for the arrest as in the preceding section: and thereafter his answer shall be heard as if he had been arrested on a warrant. (Act Apr. 14, 1939, c. 240, §14.)

10547-23. Who may be apprehended.—Whenever any person within this state shall be charged on the oath of any credible person before any judge or magistrate of this state with the commission of any crime within this state, and except in cases arising under Section 6 with having fled from justice, with having been convicted of a crime in that state and having escaped from confinement, or having broken the terms of his bail, probation or parole, or whenever complaint shall have been made before any judge or magistrate in this state setting forth on the affidavit of any credible person in another state that a crime has been committed in such other state and that the accused has been charged in such state with the commission of the crime, and, except in cases arising under Section 6, has fled from justice, or with having been convicted of a crime in that state and having escaped from confinement, or having broken the terms of his bail, probation or parole, and is believed to be in this state, the judge or magistrate shall issue a warrant directed to any peace officer commanding him to apprehend the person named therein, wherever he may be found in this state, and to bring him before the same or any other judge, magistrate or court who may be available in or convenient of access to the place where the arrest may be made, to answer the charge or complaint and affidavit, and a certified copy of the sworn charge or complaint and affidavit upon which the warrant was issued shall be attached to the warrant. (Act Apr. 14, 1939, c. 240, §13.)

10547-24. Arrest without warrant.—The arrest of a person may be lawfully made also by any peace officer or a private person, without a warrant upon reasonable information that the accused stands charged in the courts of a state with a crime punishable by death or imprisonment for a term exceeding one year, but when so arrested the accused must be taken before a judge or magistrate with all practicable speed and complaint must be made against him under oath setting forth the ground for the arrest as in the preceding section: and thereafter his answer shall be heard as if he had been arrested on a warrant. (Act Apr. 14, 1939, c. 240, §14.)

10547-25. Court may commit to jail.—If from the examination before the judge or magistrate it appears that the person held is the person charged with having committed the crime alleged, or if it appears arising under section 6, that he has fled from justice, the judge or magistrate must, by a warrant requiring the accusation commit him to the county jail for such a time as will enable the arrest of the accused to be made under a warrant of the governor on a requisition of the Executive Authority of the state having jurisdiction of the offense, unless the governor shall give bail or other security for his appearance before the judge or magistrate, and for his surrender, to be arrested upon the warrant of the Governor of this state. (Act Apr. 14, 1939, c. 240, §15.)

10547-26. May be admitted to bail.—Unless the offense with which the prisoner is charged is shown to be an offense punishable by death or life imprisonment under the laws of the state in which it was committed, a judge or magistrate in this state may admit the person arrested to bail by bond, with sufficient sureties, and in such sum as he deems proper, conditioned for his appearance before him at time in such bond, and for his surrender, to be arrested upon the warrant of the Governor of this state. (Act Apr. 14, 1939, c. 240, §16.)

10547-27. May be discharged—When.—If the accused is not arrested under warrant of the governor by the expiration of the time specified in the warrant or bond, a judge or magistrate may discharge him or may recommit him for a further period not to exceed 60 days or a judge or magistrate judge may again take bail for his appearance and surrender, as provided in section 16, but within a period not to exceed 60 days after the date of such new bond. (Act Apr. 14, 1939, c. 240, §17.)

10547-28. May declare bond forfeited.—If the prisoner is admitted to bail, and fails to appear and surrender himself according to the conditions of his bond, the judge, or magistrate by proper order, shall declare the bond forfeited and order his immediate
arrest without warrant if he be within this state. Recovery may be had on such bond in the name of the state as in the case of other bonds given by the accused in criminal proceedings within this state. (Act Apr. 14, 1939, c. 240, §18.)

10547-29. May either hold or surrender prisoner.—If a criminal prosecution has been instituted against such person under the laws of this state and is still pending, the governor, in his discretion, either may surrender him on demand of the executive authority of another state or hold him until he has been tried and discharged or convicted and punished in this state. (Act Apr. 14, 1939, c. 240, §19.)

10547-30. Governor not to inquire into guilt or innocence.—The guilt or innocence of the accused as to the crime of which he is charged may not be inquired into by the governor or in any proceeding after the demand for extradition accompanied by a charge of crime in legal form as above provided shall have been presented to the governor, except as it may be involved in identifying the person held as the person charged with the crime. (Act Apr. 14, 1939, c. 240, §20.)

10547-31. May recall warrant.—The governor may recall his warrant of arrest or may issue another warrant whenever he deems proper. (Act Apr. 14, 1939, c. 240, §21.)

10547-32. Warrant for fugitives, parolees or probationers.—Whenever the governor of this state shall demand a person charged with crime or with escaping from confinement or breaking the terms of his bail, probation or parole in this state, from the Executive Authority of any other state, or from the chief justice or an associate justice of the supreme court of the district of Columbia authorized to receive such demand under the laws of the United States, he shall issue a warrant under the seal of this state, to some agent, commanding him to receive the person so charged and to convey him to the proper officer of the county in this state in which the offense was committed. (Act Apr. 14, 1939, c. 240, §22.)

10547-33. Prosecuting attorney or other officers to make written application.—(1) When the return to this state of a person charged with crime in this state is required, the prosecuting attorney shall present to the governor his written application for a requisition for the return of the person charged, in which application shall be stated the name of the person so charged, the crime against him, the approximate time, place and circumstances of its commission, the state in which he is believed to be, including the location of the accused therein at the time the application is made and certifying that, in the opinion of the said prosecuting attorney the ends of justice require the arrest and return of the accused to this state for trial and that the proceeding is not instituted to enforce a private claim.

(2) When the return to this state is required of a person who has been convicted of a crime in this state and has escaped from confinement or broken the terms of his bail, probation or parole, the prosecuting attorney of the county in which the offense was committed, the parole board, or the warden of the institution or sheriff of the county, from which escape was made, shall present to the governor a written application for a requisition for the return of such person, in which application shall be stated the name of the person so charged, the crime of which he was convicted, the circumstances of his escape from confinement or of the breach of the terms of his bail, probation or parole, the state in which he is believed to be, including the location of the person therein at the time application is made.

(3) The application shall be verified by affidavit, shall be executed in duplicate and shall be accompanied by two certified copies of the indictment returned, or information and affidavit filed, or of the complaint made to the judge or magistrate, stating the offense with which the accused is charged, or of the judgment of conviction or of the sentence. The prosecuting officer, parole board, warden or sheriff may also attach such further affidavits and other documents in duplicate as he shall deem proper to be submitted with such application. One copy of the application, with the action of the Governor indicated by endorsement thereon, and one of the certified copies of the indictment, complaint, information, indorsements, affidavits, or of the judgment of conviction or of the sentence shall be filed in the office of the secretary of state to remain of record in that office. The other copies of all papers shall be forwarded with the governor's requisition. (Act Apr. 14, 1939, c. 240, §23.)

10547-34. May not be served with civil process.—Consent to return to demanding state.—Delivery of prisoner.—Voluntary return.—Crimes committed in this state.—A person brought into this state by, or after waiving of, extradition based on a criminal charge shall not be subject to service of personal process in civil actions arising out of the same facts as the criminal proceedings to answer which he is being or has been returned, until he has been tried, or convicted under this criminal proceeding, or, if acquitted, until he has had reasonable opportunity to return to the state from which he was extradited.

(a) Any person arrested in this state charged with having committed an offense in another state shall not be subject to service of personal process for civil actions arising out of the same facts as the criminal proceeding in which he is charged, unless he consents to return to the demanding state; provided, however, that before such waiver shall be executed or subscribed by such person it shall be the duty of such judge to inform such person of his rights to the issuance and service of a warrant of extradition and to obtain a writ of habeas corpus as provided for in section 19.

If and when such consent has been duly executed it shall forthwith be forwarded to the office of the Governor of this state and filed therein. The judge shall direct the officer having such person in custody to deliver forthwith such persons to the duly accredited agents of the demanding state, and to obtain a writ of habeas corpus as provided for in section 19.

(b) Nothing in this act contained shall be deemed to constitute a waiver by this state of its right, power or privilege to try such demanded person for crimes committed within this state, or of its right, power or privilege to retrain custody of such person in the tradition proceedings or otherwise for the purpose of trial, sentence or punishment for any crime committed within this state, nor shall any proceedings had under this act which result in, or fail to result in, extradition be deemed a waiver by this state of any of its rights, privileges or jurisdiction in any way whatsoever. (Act Apr. 14, 1939, c. 240, §24.)

10547-35. May be tried for other crimes.—After a person has been brought back to this state by, or after waiving of, extradition based on a criminal charge, he may be tried in this state for other crimes which he may be charged with having committed here as well as that specified in the requisition for his extradition. (Act Apr. 14, 1939, c. 240, §25.)
10547-38. Interpretation and construction of act. The provisions of this act shall be so interpreted and construed as to carry out the purposes to make uniform the law of those states which enact it. (Act Apr. 14, 1939, c. 240, §28.)

10547-37. Provisions severable.—If any provision of this act or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared to be severable. (Act Apr. 14, 1939, c. 240, §27.)

10547-38. Governor may appoint agent.—In every case authorized by the constitution and laws of the United States, the Governor may appoint an agent, who shall be the sheriff of the county from which the application for extradition shall come, when he can act, to demand of the Executive Authority of any state or territory any fugitive from justice or any person charged with a felony or other crime in this state; and whenever an application shall be made to the Governor for that purpose, the attorney general, when so required by him, shall forthwith investigate or cause to be investigated by any county attorney the grounds of such application, and report to the Governor all material circumstances which shall come to his knowledge, with an abstract of the evidence, and his opinion as to the expediency of the demand. The accounts of agents so appointed shall in each case be audited by the county board of the county where in the crime upon which extradition proceedings are based shall be alleged to have been committed, and every such agent shall receive from the treasury of such county four dollars for each calendar day, and the necessary expenses incurred by him in the performance of such duties. (Act Apr. 14, 1939, c. 240, §28.)

10547-39. Transit of extradited person through state—powers of officers.—Any person who has been or shall be convicted of or charged with a crime in any other state, who shall be lawfully in the custody of any officer of the state where such offense is claimed to have been committed, may be by said officer conveyed through or from this state, for which purpose such officer shall have all the powers in respect of his control or custody that an officer of this state has over a prisoner in his charge. (Act Apr. 14, 1939, c. 240, §28.)

10547-40. Laws repealed.—Mason's Minnesota Statutes of 1927, Sections 10541, 10542, 10543, 10544, 10545, 10546 and 10547, and all acts and parts of acts inconsistent with the provisions of this act and not expressly repealed herein, are hereby repealed. (Act Apr. 14, 1939, c. 240, §30.)

10547-41. Short title.—This act may be cited as the Uniform Criminal Extradition Act. (Act Apr. 14, 1939, c. 240, §31.)

10547-42. Effective date.—This act shall take effect 30 days after its passage. (Act Apr. 14, 1939, c. 240, §32.)

PROCEEDINGS TO PREVENT CRIME


ARRESTS

10566. Defined.—By whom made—Aiding officer. By pleading not guilty to a complaint filed in a justice court charging defendant with murder defendant waived jury trial and was tried by the court. The defendant convicted of murder and sentenced to life imprisonment. The case was appealed to the Minnesota Supreme Court. The court affirmed the conviction and sentence. State v. Henepeter, 1933 Minn. 217 N.W. 700. See Dun. Dig. 2443, 2444. Duty of sheriff real estate of a small housing project to arrest within village for violation of its ordinances, fees of sheriff being paid by village, but village has no authority to compensate deputy in addition to fees prescribed. Op. Atty. Gen. Apr. 26, 1932. Mayor and councilmen of city of St. Peter have full power to require all persons in possession of liquor to be in compliance with the law and are not limited to exercise of such authority to times of riots and public disturbances. Op. Atty. Gen. (94) Aug. 8, 1934.

10570. Without warrant, when—Break door, etc. Threat to shoot an officer if he takes property under reprieve papers is a misdemeanor under §10431 and the officer may arrest the offender without a warrant. 177 Minn. 205, 255 N.W. 149. Whether officer failed to take prisoner before magistrate within a reasonable time held for jury. 177 Minn. 220, 255 N.W. 148. The restraint after resolving warrant was illegal, prisoner had a right of action for false imprisonment irrespective of his release. 177 Minn. 220, 255 N.W. 148. Where an officer apprehended a warrant, the burden rests upon the officer to plead and prove justification. Otherwise the arrest is prima facie unlawful. Evans v. J., 182 Minn. 226, 234 N.W. 253. See Dun. Dig. 512, 3729 (51). In action for false imprisonment, whether the plaintiff was struck at the place of arrest for the jury. Evans v. J., 182 Minn. 226, 234 N.W. 253. See Dun. Dig. 3729 (a). Whether the sheriff detained the plaintiff in the county jail for unreasonable time before bringing her before magistrate or obtaining warrant held for jury. Evans v. J., 182 Minn. 226, 234 N.W. 253. See Dun. Dig. 3729 (b). Whether the sheriff of the county directed or authorized the constable to make the arrest was under the evidence, a question of fact for the jury. Evans v. J., 182 Minn. 226, 234 N.W. 253. See Dun. Dig. 3729 (c).


EXAMINATION OF OFFENDERS—COMMITMENT—BAIL

10577. Proceedings on complaint—Warrant. 1. Nature of proceeding. The preliminary examination referred in §10666 is that provided for by §10577 to 10587. 175 Min. 508, 221 N.W. 905. 2. Waiver. Where defendant, when arraigned in district court, stood mute and did not call court's attention to state's failure to file formal complaint against him, and that a preliminary examination, objections to district court's jurisdiction were thereby waived, State v. Fuent, 183 Minn. 212, 234 N.W. 725. See Dun. Dig. 2458.

3. The complaint. Where a complaint is a criminal complaint it is void for duplicity must be taken at or before trial, or it will be considered as waived. 177 Minn. 307, 225 N.W. 148. A justice has no authority to issue a subpoena requiring the appearance of a defendant who has been served with a summons and an action is pending before him. Op. Atty. Gen., Aug. 5, 1930.

4. The examination. Testimony taken by a committing magistrate under §10677 need not be reduced to writing. certified and returned to clerk of district court under §10652. State v. District Court, 192 Minn. 226, 237 N.W. 960. See Dun. Dig. 2458.


10579. Offender may give recognizance, etc. Defendant held to have been broken his bond by failing to appear on the day he was to do so, although he appeared at a later date and during the term and entered a plea of guilty. U. S. v. Pleasant (DC-Minn) 262 F. (2D) 104.

10585. Examination.—Rights of accused. An automobile belonging to the victim of an assault while in custody of the defendant, as the constable, was not investigatory, because the defendant had no right to seize an automobile belonging to the victim of an assault while in custody of the constable. State v. Governor all material circumstances which shall come to his knowledge, with an abstract of the evidence, and his opinion as to the expediency of the demand. The accounts of agents so appointed shall in each case be audited by the county board of the county where in the crime upon which extradition proceedings are based shall be alleged to have been committed, and every such agent shall receive from the treasury of such county four dollars for each calendar day, and the necessary expenses incurred by him in the performance of such duties. (Act Apr. 14, 1939, c. 240, §28.)

10547-39. Transit of extradited person through state—powers of officers.—Any person who has been or shall be convicted of or charged with a crime in any other state, who shall be lawfully in the custody of any officer of the state where such offense is claimed to have been committed, may be by said officer conveyed through or from this state, for which purpose such officer shall have all the powers in respect of his control or custody that an officer of this state has over a prisoner in his charge. (Act Apr. 14, 1939, c. 240, §28.)

10547-40. Laws repealed.—Mason's Minnesota Statutes of 1927, Sections 10541, 10542, 10543, 10544, 10545, 10546 and 10547, and all acts and parts of acts inconsistent with the provisions of this act and not expressly repealed herein, are hereby repealed. (Act Apr. 14, 1939, c. 240, §30.)

10547-41. Short title.—This act may be cited as the Uniform Criminal Extradition Act. (Act Apr. 14, 1939, c. 240, §31.)

10547-42. Effective date.—This act shall take effect 30 days after its passage. (Act Apr. 14, 1939, c. 240, §32.)

PROCEEDINGS TO PREVENT CRIME

10587. Prisoner discharged, when—Offenses not bailable.


10588. Bail—Commitment.

1/2. In general.

When a defendant has no application to be given bail money to a United States court commissioner. Mooney, 184M334, 225NW686. See Dun. Dig. 2438b.


10502. Certifying testimony.

The court, not the jury, has the benefit of knowledge disclosed by testimony certified by magistrate in the files of the case in the office of the clerk of the trial court. State v. Irish, 131M449, 233NW625. See Dun. Dig. 2438c(3).

Bond taken by a committing magistrate under §10577 need not be reduced to writing or certified and returned to clerk of district court under §10592. State v. District Court, 122M426, 257NW849. See Dun. Dig. 2438d.

It is not necessary for a justice of the peace to make a return to the clerk of the district court of a preliminary hearing where the defendant is discharged and not bound over. Op. Atty. Gen., Dec. 19, 1931.

10503. Proceedings on default.

Defendant is entitled to know names of witnesses his bond by failing to appear on the day that his case was called for trial, though he appeared at a later date and during the term entered a plea of guilty. U. S. v. Pleason (DC-Minn) 26F(2d)104.


10505. Action on recognizance—Not barred, when.

U. S. v. Pleason (DC-Minn) 26F(2d)104.

10508. Application for bail—Justification.


10509. Surrender of principal—Notice to sheriff.

Right of surety to recapture principal in another state. 16MinnLawRev197.

10002.4. Corporate bonds authorized in criminal cases—Any defendant required to give a bond, recognize or undertaking to secure his appearance in any criminal case in any court of record, may, if he so elects, give a surety bond, recognize or undertaking executed by a corporation authorized by law to elect, give a surety bond, recognize or undertakings, provided, that the amount of such bond, recognize or undertaking as fixed by the court must be the same regardless of the kind of bond, recognize or undertaking taken.

(Act Apr. 25, 1931, c. 386, §1.)

GRAND JURIES

10003. Members—Quorum.

Grand juries are not entitled to extra compensation for committee meetings or for investigation when no quorum is present. Op. Atty. Gen. (256A), Apr. 30, 1937.

10004. Grand juries—When to be drawn—Who called.

Where county attorney more than 15 days before regular term ordered for judge of district court for grand juries not filed with clerk of court until less than 15 days before term, no grand jury could be called for such term. Op. Atty. Gen. (449A-3), Sept. 30, 1937.

10006. Names, how prepared and drawn.


10022. Evidence—For defendant.

1. In general.

A witness before a grand jury may not refuse to answer questions because they have not been ruled upon by the court or because they seem to relate only to an offense, the prosecution of which is barred by a statute of limitation. 177M200, 244NW530.

2. Accused as witness.

When, after a complaint is filed against defendant in municipal court charging him with a felony and an indigent defendant is arrested thereon, but, before hearing thereon, he is released and given a bond, if defendant is subsequently proved to have committed the offense charged, defendant is entitled to have an information then filed against him on such charge, by county attorney in district court, set aside. State v. Corteau, 15M433, 270NW114. See Dun. Dig. 10357.

10082. Matters inquired into.

A witness before a grand jury may not refuse to answer questions because they have not been ruled upon by the court or because they seem to relate only to an offense, the prosecution of which is barred by a statute of limitation. 177M200, 244NW530.

10087. Indictment—How found and Indorsed—Names of witnesses.

A county attorney has not the power to institute a prosecution where the grand jury, having passed upon the evidence and returned a no-bill without first obtaining a court order in advance. Op. Atty. Gen., Oct. 19, 1931.

Where the grand jury has actually considered a specific charge and returned no-bill, the matter may be submitted to another jury, again only by direction of the district court. Op. Atty. Gen., Oct. 19, 1931.

It was not fatal that names of some who appeared before grand jury were not embodied in indictment, although containing names of witnesses. State v. Waddell, 18M121, 245NW149. See Dun. Dig. 4538.

Evidence taken by a committing magistrate under §10596 need not be reduced to writing or certified and returned to clerk of district court under §10592. State v. Corteau, 11M200, 237NW641. See Dun. Dig. 4538.

10090. Indictment presented, filed, and recorded.

It is not proper in district court to include in one file several charges against the same defendant, even though these charges arise out of the same transaction. Op. Atty. Gen. Apr. 18, 1931.

INDICTMENTS

10090. Contents.

Pendency of a proceeding for preliminary examination in municipal and justice of the peace courts is not a bar to the consideration of an indictment by the grand jury. 175M202, 223NW267.

Indictment charging maintenance of a liquor nuisance, held sufficient. 177M202, 223NW267.

State cannot be expected to draft such an indictment as to disclose all of the evidence. State v. Nusser, 199M315, 271NW621. See Dun. Dig. 4538.


Where partners in a store are robbed, and robber takes money from the persons of each and from the store till, three offenses are committed, and there should be three separate indictments. Op. Atty. Gen., Dec. 15, 1931.

Where two or more persons are robbed at the same time, separate offenses are committed and separate indictments are necessary. Op. Atty. Gen., Dec. 15, 1931.

14. Essential elements to be alleged.

An indictment should be so worded as to charge particulars of offense of which the accused is accused will be apprised of nature of charge. State v. Nusser, 199M315, 271NW621.

18. Following language of statute or ordinance.

Indictment charging defendant did "ask, agree to receive" and receive $1,000, was not duplicitous or repugnant. 178M427, 227NW497.

Indictment or information is sufficient if it sets forth in language of statute elements of offense intended to be punished. State v. Omodt, 198M125, 269NW360. See Dun. Dig. 4538.

A person may be charged in an indictment in words of statute without particular statement of facts and circumstances if offense is full, direct, and expressly alleged, but if statute does not set forth all elements necessary to constitute offense, then which is to be "true in all the words and following words of statute is not sufficient. State v. Ench, 260M314, 282NW810. See Dun. Dig. 4579.
10041. To be direct and certain.

1. Hezbollah. 225NW260. An information must be

2. To be clear and explicit. An indictment charging

3. To be sufficient. An indictment charging maintenance of a

4. Of mere recital or argument. Id. Information

5. Of crime positively and not inferentially as by

6. A differing conclusion is negatived. Id. State v. Lopes, 201M

7. Of implication when all possibility of other or

8. Held not to render indictment double. Id. See Dun. Digest

9. An information may consist of changing the date of the

10. Misnomer of defendant in criminal complaint and war-

11. Where inspection could not have influenced verdict. State v.

12. An information may be amended on trial, and such

13. An information may be amended on trial, and such

14. Throughout, or elsewhere, or even further than the date of

15. Words of statute need not be followed. Where

16. Indictment charging maintenance of a liquor nuisance, held

17. Information charging that defendant unjustifiably ex-

18. Indictments charging that offense occurred in a given

19. Tests of sufficiency. Indictment charging maintenance of a

20. Indictment charging that offense occurred in a given

21. An information may be amended on trial, and such

22. An information may be amended on trial, and such

23. For trial, in the county or with such county or

24. Error in trial of one count of indictment does not

25. Error in trial of one count of indictment does not

26. Information alleging the stealing of men's clothing

27. Section 10648. An indictment which would not be good as a

28. Section 10648. An indictment which would not be good as a

29. Section 10648. An indictment which would not be good as a

30. Section 10648. An indictment which would not be good as a

31. Section 10648. An indictment which would not be good as a

32. Section 10648. An indictment which would not be good as a

33. Section 10648. An indictment which would not be good as a

34. Testimony of a conspirator that he and his associates

35. An information may be amended on trial, and such an

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The record, particularly where prosecuting attorney outlined evidence in his opening statement to jury. State v. Ellis, 285 NW475. See Dun. Dig. 2490.

10651. Indictment for libel.

Pleading guilty after his demurrer to information had been overruled. Id. See Dun. Dig. 4418.

10654. Compounding felony indictable.

172M139, 214 NW785. larceny. 172M139, 214 NW785.

10655. Limitations.


WHEREFORE the Information clearly shows that time within which statute permits offense to be prosecuted has elapsed, absent any allegation avoiding operation of statute of limitations, an original indictment must be dismissed. State v. Cramer, 193M344, 258 NW535. See Dun. Dig. 4384.

A libelous article charges a named voluntary unincorporated association of persons with wrongdoing. Libel applies to the members of such association, though not specifically named in the article. Id. See Dun. Dig. 4366.

Court may allow amendments of indictments as to matters of substance, even though period of limitations has run. McNary v. State, 175M508, 220 NW910. See Dun. Dig. 4430. A plea of not guilty may be entered at a preliminary hearing. State v. Stahl, 193M149, 231 NW795. See Dun. Dig. 4360.

10657. Court may direct filing of information, when—Plea—etc.—That in all cases where a person charged with a criminal offense shall have been committed for trial and is in actual confinement or in jail by virtue of an indictment or information pending against him, the court having trial jurisdiction of such offense or of such indictment or information or proceedings shall have the power at any time, whether in term or vacation, upon the application of the prisoner in writing, stating that he desires to plead guilty to the charge made against him by the indictment, for an order. Such an order is to be a lower degree of the same offense to direct the county attorney to file an information against him for such offense, if any indictment or information had not been filed and upon such information and of such application, the court may receive and record a plea of guilty to offense charged in such indictment or information, or to a lesser degree of the same offense and cause judgment to be entered thereon and pass sentence on such person pleading guilty, and such proceedings may be had either in term time or in vacation, at such place within the jurisdictional district where the crime was committed as may be designated by the court.

Wherever such plea shall be received at any place other than at a regular place of holding court in the county, such offense shall have been committed by the sheriff having such accused person in custody, or the deputy of such sheriff, shall take such person before the district court wherever such court may be in the judicial district wherein such crime has been committed and such cases and before such person shall be taken before the court in any other county than that in which the crime shall have been committed, he shall sign a petition in writing, asking leave to enter such plea and said petition and request shall be approved in writing by the county attorney of the county wherein such crime shall have been committed. In case such county attorney shall desire to approve such petition and request, no judge of said court may nevertheless in his discretion direct that such accused person be brought before the court at such place as it may designate.

10661. Powers of district court.

172M508, 220 NW936. See Dun. Dig. 2419a.

10662. Larceny by clerks, agents, etc.


INFORMATIONS

10665. Information shall state, what—Etc.

Information alleging the stealing of men's clothing in the nighttime, without alleging that it was taken from any building, charging larceny and not first degree larceny. 172M139, 214 NW785.

An information may be amended on trial, and such an amendment shall consist of changing the degree of the commission of the crime. State v. Irish, 183M49, 235 NW 900. See Dun. Dig. 4360.

Information charging that defendant unjustifiably exposed poison with intent that it should be taken by another, and that the crime was committed by the defendant. State v. Eich, 204 M134, 282 NW810. See Dun. Dig. 4360.

10666. Preliminary examination.

Prosecution under §52-1-2, permitting increased punishment of habitual criminals, may be initiated by information though a sentence of imprisonment for more than 10 years may result. 176M508, 221 NW900.

This section has no application to the procedure under § 4 of Laws 1927, c. 256 (§931-3) and is not repealed by that act. 176M508, 221 NW900.

The preliminary examination referred to in this section is that provided for by §§10577 to 10587. 176M508, 221 NW900.

Pendency of a proceeding for preliminary examination in municipal or justice court does not prevent the finding of an indictment by the grand jury. 176M609, 222 NW 280. In any court, not the jury, has the benefit of knowledge disclosed by the files of the case in the office of the clerk of the county where the crime was committed. State v. Irish, 183M49, 235 NW905. See Dun. Dig. 2431.

Where the defendant, when arraigned in district court, stood mute and did not call court's attention to state's failure to file formal charge, held as to the validity of the information. State v. Stahl, 193M149, 231 NW795. See Dun. Dig. 4360.
CH. 104—CRIMINAL PROCEDURE

§10682. Crimes of corporations, etc.

A cooperative creamery association may be prosecuted for violation of any statute or food law, and an application of the doctrine of res ipsa loquitur to such an association where thereof violating law may also be prosecuted, but of


SETTING ASIDE INDICTMENT

§10685. Grounds—Waiver of objections.

1. Under subd. 1, defendant was not entitled to have an indictment quashed simply because grand jury declined to call a witness on his behalf, or before being entitled to call, even though an earlier grand jury, with testimony of designated witness before them, had refused to indi-

State v. Lane, 195M587, 253NW921. See Dun. Dig. 4422.

DEMURRERS

§10690. Grounds of demurrer.

Where information clearly shows that time within which statute permits offense to be prosecuted has expired, and no plea of guilty is allowable, the information is demurrable. State v. Tupa, 194 M588, 260NW785. See Dun. Dig. 4294.

Defendant did not waive statute of limitations by pleading guilty after his demurrer to information had been overruled. Id. See Dun. Dig. 4294.

§10692. Proceedings on allowance—Defendant, when charged.

This statute has no application to amendment of sub-

§10693. Pleas on demurrer.

Plea of not having been made by demurror or motion before trial, it is then too late to object to use in an

pleading guilty after his demurrer to information had

§10694. Objections taken by demurrer.

A plea of guilt does not preclude a defendant from raising, for the first time on appeal, the question of whether or not the complaint, information, or indictment charges a public offense. State v. Parker, 183M 587, 237NW409. See Dun. Dig. 431.

§10696. Plea of guilty.

A plea of guilty if withdrawn by demurror or motion before trial, it is then too late to object to use in an

pleading guilty after his demurrer to information had

§10697. Plea of not guilty—Evidence under.

Plea of not having been made by demurror or motion before trial, it is then too late to object to use in an

pleading guilty after his demurrer to information had

§10698. Acquittal—When a bar.

State v. Winger, 204M164, 285NW951: note under §10124.

A plea of former conviction or acquittal for same offense as alleged in the information is a bar to an acquittal on cross-examination what he said before the presiding judge after his plea preliminary to sentence. 174M550, 215NW926.

§10699. Indictment for offense of different degrees.

State v. Winger, 204M164, 285NW951: note under §10124.

A defendant's constitutional right to plead former jeopardy may be waived if such a plea is not entered at proper time, if it is entered on second or subsequent charge, or if defendant is not original defendant, or if original defendant was not tried on same offense as alleged in the information is a bar to an acquittal on cross-examination what he said before the presiding judge after his plea preliminary to sentence. 174M550, 215NW926.
A plea of former jeopardy will not be sustained where it appears that the two transactions two distinct crimes were committed.

It is identity of offense, and not of act, which is referred to in sustaining a plea against putting a person twice in jeopardy. Where two or more persons are injured in their persons, though by a single act, yet if consequences affect separately, each injured, there is a corresponding number of distinct offenses. The same rule applies where two persons in same automobile were killed. See Dun. Dig. 2425.

Multiple consequences of a single criminal act 21 Minn.LawRev605.

CHANGE OF VENUE

10701. Place of trial—Change of venue.

1. Place of trial.

The place of criminal prosecution and exposure to disgrace made in one county, which frightened the threats of personal payment of money in another county, sustain a conviction, and latter conviction as evidence, State v. McKinzie, 162M253, 235NW274. See Dun. Dig. 2426.

Venue of prosecution for obtaining money by fraudulently preprinted checks was properly laid in county where bank was at the place where checks were issued and delivered, Dun. Dig. 2423.

2. Presence of accused.

It appears that in one transaction two distinct crimes were committed. Id.

It is identity of offense, and not of act, which is referred to in sustaining a plea against putting a person twice in jeopardy. Where two or more persons are injured in their persons, though by a single act, yet if consequences affect separately, each injured, there is a corresponding number of distinct offenses. The same rule applies where two persons in same automobile were killed. See Dun. Dig. 2425.

Multiple consequences of a single criminal act 21 Minn.LawRev605.

Declarations of an alleged conspirator are not competent evidence as against the coconspirator where evidence of conspiracy has been established by other competent evidence. Id. See Dun. Dig. 2460.

ISSUES AND MODE OF TRIAL

10705. Issue of fact—How tried—Appearance in person.—An issue of fact arises: (1) Upon a plea of guilty; (2) upon a plea of former conviction or acquittal of the same offense. Except where defendant waives a jury trial, every issue of fact shall be tried by a jury of the county in which the indictment was found or information filed, unless the defendant shall have been removed by order of court as provided in sections 10701-10704. If the defendant shall waive a jury trial, such waiver shall be in writing signed by him in open court after he has been arraigned and has had opportunity to consult with counsel and shall be filed with the clerk. Such waiver may be withdrawn by the defendant at any time before the commencement of the trial. If the charge against the accused is a misdemeanor, the trial may be had in the absence of the defendant, if he shall appear by counsel; but, if it be a felony, the accused shall be personally present. R. L. '06, §5585; G. S. '15, §5200; Apr. 17, 1935, c. 194, §2.

1. In general.

Cases limiting application of presumptions in criminal cases cannot be invoked to destroy force of legitimate and obvious inferences. Husten v. U. S., (CCA8). 95F(2d) 168.

A plea of former jeopardy cannot be presented by motion on affidavits, but must be urged by formal plea, the issues of fact in which must be tried by jury. 180 Minn. 587, 231NW64.

It is not error to admit in evidence a conversation had between defendant and two employers of owner of store from which goods were taken, it appearing from that conversation that defendant admitted her guilt in charge free from doubt. State v. Blackburn, 189M578, 237NW308, immediately after theft of goods which were found in defendant's possession hidden from view under her coat. State v. Tremont, 193M36, 265NW207. See Dun. Dig. 2462.

In prosecution for arson for burning wife's house, there was no prejudicial error in admitting in evidence partly burned matches, two candles tied together, and neck of broken glass jar, though they had no probative value whatever as to origin of second fire following a former one, and though there was some change in condition of the place during the period of time that they were introduced in evidence, State v. Zempel, 196M153, 264NW237. See Dun. Dig. 2463.

Whether a new trial shall result because of misconduct of prosecuting attorney, is, in large measure, discretionary with trial court. State v. Hoffinger, 200M258, 274NW234. See Dun. Dig. 2489.

A plea of former conviction or acquittal for same offense raises an issue of fact of which trial court has jurisdiction. State v. Utrecht, 257NW229. See Dun. Dig. 2441.

One charged with an offense under municipal ordinance is not entitled to a jury trial unless it is expressly provided in such ordinance, or by charter or law under which city or village is operating. Op. Atty. Gen. (47th), Mar. 18, 1935.

2. Presence of accused.

Accused at liberty on bail is entitled to a jury trial unless it is expressly provided in the order of court as provided in section 10705. Issue of fact—How tried—Appearance in person.

Acquitted on bail did waive right to be present when verdict was rendered. 177M583, 225NW82.

Where court fails to require bail, it affords to the accused the right to be present when verdict is returned, as required by the Sixth Amendment, 175M577, 221NW24. See Dun. Dig. 2448.

Attorney for defendant's attorney of the return of a verdict, the remedy for this nonobservance of the practice should be a motion for a new trial, and not an appeal, State v. Zoff, 196M382, 265NW34. See Dun. Dig. 2458.

Whether a new trial shall result because of misconduct of prosecuting attorney, is, in large measure, discretionary with trial court. State v. Hoffinger, 200M258, 274NW234. See Dun. Dig. 2489.

A plea of former conviction or acquittal for same offense raises an issue of fact of which trial court has jurisdiction. State v. Utrecht, 257NW229. See Dun. Dig. 2441.

One charged with an offense under municipal ordinance is not entitled to a jury trial unless it is expressly provided in such ordinance, or by charter or law under which city or village is operating. Op. Atty. Gen. (47th), Mar. 18, 1935.

2. Presence of accused.

Accused at liberty on bail may waive right of being present when verdict is returned, 175M577, 221NW24. Where court fails to require bail, it affords to the accused the right to be present when verdict is returned, as required by the Sixth Amendment, 175M577, 221NW24. See Dun. Dig. 2449.

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One charged with an offense under municipal ordinance is not entitled to a jury trial unless it is expressly provided in such ordinance, or by charter or law under which city or village is operating. Op. Atty. Gen. (47th), Mar. 18, 1935.
Evidence of defendant's association with others who were criminals was improperly admitted. 191M565, 213 NW307. See Dun. Dig. 2454.

Courts have refrained from requiring an offer of proof. State v. Nilson, 199M193, 236NW456. See Dun. Dig. 2452.

Questions of prosecuting attorney made while cross-examining defendant carrying insinuations that defendant had obtained money by false pretenses at other times, though improper, did not prejudice the jury. State v. Nusser, 195M915, 216NW251. See Dun. Dig. 2459.

Courts might doubt value of opinion of woman that one charged with driving under the influence of alcohol was driving at high speed, where evidence showed that she also had two highballs. City of Duluth v. L., 193M470, 227NW105. See Dun. Dig. 2455.

In a prosecution for driving a car while intoxicated, refusal to permit defendant to testify that it was his custom to hire drivers, being at most an offer of proof on a collateral issue, though made while cross-examining defendant who drove car at time of accident, was properly received. Id. See Dun. Dig. 2452.

In a prosecution for theft by finding, value of opinion of woman that the defendant's conduct the day before gave rise to belief that he was driving drunk, was not evidence of good reputation. State v. Oslund, 192M57, 273NW76. See Dun. Dig. 2458.

Defendant in a bastardy proceeding is entitled to prove good character as to chastity and morality. Id. See Dun. Dig. 2459.

Defendant's statements or admissions, even those made in presence of the complaining witness, are admissible in a prosecution for conspiracy to assault against one not present at time of assault, if the statements were made while defendant was in the state of the declarant's mind. State v. Nelson, 192M306, 236NW456. See Dun. Dig. 2452.

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Evidence of defendant's association with others who were criminals was improperly admitted. 191M565, 213 NW307. See Dun. Dig. 2454.

There was no substantial error in robbery prosecution relative to production of dairy which it was suggested would corroborate claim of alibi, nor in respect of proof as to possession of stolen goods. State v. Stockton, 186M13, 242NW344.

A paper charging defendant with conduct unbecoming a member of church, signed by an officer of church, held admissible in prosecution for rape. State v. Wulff, 197M243, 258NW578. See Dun. Dig. 2458.

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10706. Continuance—Defendant committed, when.

Refusal of continuance on account of absence of witness, 273NW280. See Dun. Dig. 1715.

10709. Juror may testify, when—View.

Juror's duty is to visit and inspect building from which property was charged to have been stolen without order of court or any notice to defend-ant. State v. Simenson, 195M258, 262NW638. See Dun. Dig. 12475.

10710. Questions of law and fact, how decided.

It was error to charge that the only issue was whether defendant was guilty of robbery the first degree or of an attempt to commit such robbery, it being within province of jury to return not guilty verdict though court, and granting a continuance of only one day to a matter not shown by evidence held not prejudicial.

Dun. Dig. 2477a.

1. Presence of court and jury generally.

Credibility of testimony of a paid detective in a prosecution for unlawful sale of intoxicating liquor was for the jury. State v. Nicklin, 188M46, 214NW265. See Dun. Dig. 2477(39).

2. Conduct of prosecuting attorney in referring to court's decision and vigorous arraignment of attempted defenses. 171M380, 214NW265.

10711. Order of argument.

Some allowances must be made for rhetorical flights and even for argument of counsel, 233NW590. See Dun. Dig. 2477.

In Kenernl.

1. In General.

There can be no reversal in a criminal case for alleged misconduct of prosecuting attorney, without a statement made by accused, 181M566, 233NW307. See Dun. Dig. 2477.

In prosecution for murder in the third degree by killing one with an automobile, evidence held not to require an instruction that defendant should be acquitted if he was so drunk that he did not know what he was doing. 171M414, 214NW280.

In jury instruction that prior conviction of defendant's witness was received merely for the purpose of bearing on his credibility, was proper. 171M515, 214NW293.

In the absence of a request, error cannot be predicated on failure to charge as to a lesser offense. 171M515, 214NW293.

Giving of obligatory instruction regarding danger of confusing the prosecution with the subject of the case and its purpose was not prejudicial held not prejudicial. 171M218, 220NW562.

When it is in fact present, it is not error to instruct that there is evidence to corroborate an accomplice. 175M387, 225NW158.

The charge is to be considered in its entirety. 181M303, 223NW358. See Dun. Dig. 2478.

Refer to statement of court and jury generally.

Reference by court to testimony of witness as to a matter not shown by evidence held not prejudicial. State v. Lynch, 192M534, 257NW278. See Dun. Dig. 2477.

Reference to a matter not shown by evidence held not prejudicial. State v. Lynch, 192M534, 257NW278.

There can be no reversal in a criminal case for alleged misconduct of prosecuting attorney, without a record of conduct claimed to be prejudicial and objection thereto with an exception if need be. State v. Hanka, 183M375, 255NW578. See Dun. Dig. 2478.

Prosecuting attorney held not guilty of misconduct in introducing and emphasizing evidence in support of State v. Lynch, 192M534, 257NW278.

Prosecuting attorney held not guilty of misconduct in introducing and emphasizing evidence improperly admitted held prejudicial. 181M666, 233NW207. See Dun. Dig. 2478.

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Prosecuting attorney held not guilty of misconduct in introducing and emphasizing evidence improperly admitted held prejudicial. 181M666, 233NW207.

Defects in charge not called to the court's attention for determination of trial court, and its action will not be reversed on appeal unless manifestly contrary to error. 171M233, 233NW307. See Dun. Dig. 2478.

1. In General.

Instruction detailing matters to be considered by the jury in determining defendant's knowledge that goods received by him were stolen held not prejudicial. State v. Lynch, 192M534, 257NW278. See Dun. Dig. 2477.

10712. Charge of court.

1. In general.

Instruction detailing matters to be considered by the jury in determining defendant's knowledge that goods received by him were stolen held not prejudicial. State v. Lynch, 192M534, 257NW278. See Dun. Dig. 2477.

In instruction that there is evidence to corroborate an accomplice. 175M387, 225NW158.

Prosecuting attorney held not guilty of misconduct in introducing and emphasizing evidence improperly admitted held prejudicial. 181M666, 233NW207.

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Defects in charge not called to the court's attention for determination of trial court, and its action will not be reversed on appeal unless manifestly contrary to error. 171M233, 233NW307. See Dun. Dig. 2478.

In prosecution for unlawful sale of intoxicating liquor was for the jury. State v. Nicklin, 188M46, 214NW265. See Dun. Dig. 2477.

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9. Person of innocent mind.

In instruction that presumption of innocence is for the benefit of innocent person and not intended as a shield to improperly excuse State v. Bauer, 189M390, 242NW40. See Sun. Dig. 2473n, 28.

10. Request for instructions.

Charge of court defining crime of driving automobile while intoxicated in the words of the statute held sufficient. 10723. 232NW335. See Dun. Dig. 2479.

It is not error to refuse a request to charge, where the general charge, or other request given, fairly cover the instruction. State v. Smith, 192M237, 255NW826. See Sun. Dig. 2479.

In prosecution for driving while intoxicated, there was no improper qualification of requested instruction of what defendant could complain where counsel stated that court failed to comment on defendant's condition, and court then told jury that defendant's condition at the time of trial was not to be considered together with all the other evidence in the case, counsel making no further suggestion or objection and taking no exception to any part of the charge, and refusal to request was no improper qualification of requested instruction of what defendant could complain. State v. Smith, 192M237, 255NW826. See Sun. Dig. 2479.

It was not error to refuse requested instructions given in substance by the court. State v. Winkels, 204M466, 283NW753. See Sun. Dig. 2479, 5777.


Misconduct of bailiff in informing jury that unless they agreed before midnight they would be kept until morning, held not ground for reversal. 175M174, 220NW447.

Failure to provide separate room for women held not ground for reversal. 176M604, 224NW335. See Dun. Dig. 7112.

10719-1. Sane—Premising section applicable only where there is a plea of insanity.

176M604, 224NW144; note under §10713.

10720. Polling jury—Further deliberation, when.

175M323, 225NW277; note under §10705.

Polling of jury is for purpose of ascertaining for a certainty that each juror agrees upon verdict, and not to determine whether verdict presented was reached by quotient process. Heffman v. C., 187M259, 241NW372. See Sun. Dig. 9322.

10721. Reception of verdict.

Verdict is not vitiated by failure to read it to the jury. 175M323, 225NW277; note under §10705.

Jury held not guilty of misconduct in bringing in a verdict while the defendants claimed to be sick. State v. Geary, 184M35, 235NW158. See Sun. Dig. 2476.

10722. Insanity, etc., of defendant.

Statute directing district court not to try a person for crime while he is in a state of insanity, imposes a duty on, but does not go to jurisdiction of, the court, and failure to comply with the statute is no ground for collateral attack, as in judgment of the court. State v. Utech, 203M448, 281NW776. See Sun. Dig. 2476a.

10723. Acquitted on ground of insanity—Release from state institutions.

—Whenever during the trial of any person on an indictment, or information, such person shall be found to have been, at the date of the offense alleged in said indictment, insane, an idiot, or an imbecile and is acquitted on that grounds, the jury or the court, as the case may be, shall so state in the verdict, or upon the minutes, and the court shall thereupon, forthwith, commit such person to the proper state hospital or asylum for safe-keeping and treatment, and whenever in the opinion of such jury or court such person, at said date, had homicidal tendencies, the same shall also be stated in said verdict or upon said minutes and said court shall thereupon forthwith commit such person to the hospital for the dangerous insane, and hold not guilty of felony and, in either case such person shall be received and cared for at said hospital or asylum to which he is thus committed.

The person so acquitted shall be liberated from such hospital or asylum upon the order of the court committing him thereto, whenever there is presented to said court the certificate in writing of the Superintendent of the hospital or asylum where such person is confined, certifying that in the opinion of such superintendent such person is wholly recovered and that no person will be endangered by his discharge.

Provided, that if the superintendent of the hospital or asylum fails or refuses to furnish such certificate at the request of the person committed, then said person may petition the said court for his release, and hearing on such petition shall be had before the court upon and for service of such notice as the court shall direct.

If, at such hearing, the evidence introduced convinces the court that the person so confined has wholly recovered and that no person will be endangered by his discharge, then the court shall order his discharge and release from said hospital or asylum, and be shall then be so discharged and released.

Provided, further, that if at such hearing the evidence introduced convinces the court that such person has not wholly recovered, but that no person will be endangered by his discharge, the court ordered his discharge and release from such hospital or asylum, and a proper and suitable person is willing to take such committed person on parole, and to furnish a home for him and care for and support him, and furnishes a satisfactory bond in such amount and with such terms and conditions as the court may fix, then said court may order the release of such confined person from said hospital or asylum on parole and for such time and upon such terms and conditions as the court may determine and order, and therein such person shall be so released from said hospital or asylum and placed on parole with the person named by the court in its order.

Provided, that nothing herein shall be construed as preventing the transfer of any person from one institution to another by the order of the board of control, as it may deem necessary. (R. L. ’05, §5376; ’07, C. 358, §1; G. S. ’13, §9218; Apr. 25, 1931, c. 364.)

State v. District Court, 185M395, 241NW49; note under §1048, note 15.

This act may not be construed as imposing an administrative duty upon the court. State v. District Court, 185M588, 241NW89; see Dun. Dig. 1582.

The statute makes mandatory the discharge upon presentation of a certificate of the superintendent of the hospital that "in the opinion of such superintendent a person is wholly recovered, but that no person will be endangered by his discharge." State v. District Court, 185M396, 241NW89; see Dun. Dig. 1582.

Law 1931, c. 364, establishes the exclusive statutory procedure for the release of a patient who has been committed as the result of his admission as a result of a trial on charge on the ground of insanity. It is for the benefit of those committed before, as well as of those committed after the enactment of the law. State v. District Court, 185M396, 241NW49.

10724. Hearing on punishment.

No conviction for perjury for untrue answers to questions after plea of guilty. 171M146, 221NW396.

10725. Dismissal of cause—Record of reasons for.

When a motion to dismiss is made, the court must state its reasons therefor, and defendant then proceeds to introduce evidence in his defense, sufficiency of evidence is to be determined by all evidence introduced. State v. Traver, 185M328, 268NW393. See Sun. Dig. 2477a.
CALANDER

10727. Issues, how disposed of—Time for trial.
That attorney with consent of court and without ob-
jection by defendant, as associated county attorney, was no
ground for new trial. 

10733. Challenge to individual juror.
1. Preliminary examination.
Court rightly refused to permit parties to instruct and

3. When challenge may be made.
No objection can be taken to any incompetency in a
juror, existing at time he was called, after he is ac-
ccepted and sworn, if it was known to party and he
was silent; and, even if not discovered until after ver-
dict, cause of challenge, such as non-residence of juror,
will not per se constitute ground for a new trial. State v.
Olson, 195M493, 233NW437. See Dun. Dig. 2465.

APPEALS AND WRITS OF ERROR

10747. Removal to supreme court.
The denial by the trial judge of the challenge of a
juror for cause cannot be reviewed on appeal. 171M
360, 214NW265.
Motion for a new trial in a criminal case must be
made before trial, and before the expiration of the
time to appeal from the judgment, and an appeal
from an order denying such motion cannot be taken more than
a year after such judgment is rendered. 174M194, 218NW
887.
A violation of a city ordinance is an offense against
the city and an appeal may be denied. 178M153, 220NW
611.
An order in a criminal case, made on defendant's fail-
ure to plead after and disposition of his demurrer to the
information, found him guilty, but directed him to ap-
ppear at a later date for sentence. Held, not appealable,
not being a final judgment imposing sentence and not
enforced without further Judicial action. State v. Put-
tzer, 152M423, 236NW755. See Dun. Dig. 2491(70), (71),
(72), (74).
Appeals in criminal cases can be taken only from an
order denying a motion for a new trial or from the final
judgment of conviction. State v. Putzer, 153M423, 236
NW765. See Dun. Dig. 2491(59).
An accused cannot appeal from the verdict of the
jury. State v. Stevens, 184M236, 238NW763. See Dun.
Dig. 2491(47).
A motion to vacate a judgment entered in a criminal
case cannot be presented after a defendant, having entered
a plea of not guilty, is not a motion for a new trial,
and order denying it is not appealable. State v.
Newman, 188M288. See Dun. Dig. 2491.

10748. Stay of proceeding.
1. Notice of appeal.
Notice of appeal in criminal cases to be effective
must be served on the attorney general. State v. New-
man, 188M461, 247NW756. See Dun. Dig. 2494(43).

10751. Bill of exceptions.
Court properly amended the proposed settled case

10752. Proceedings in Supreme Court.
1. In general.
See also notes under §10948.

2. Admission of incompetent evidence held not preju-
dicial to conviction. State v. Irish, 183M493, 225NW
566. See Dun. Dig. 2490(47).

3. New trial.
Exclusion of evidence held without prejudice. 171M
222, 213NW760.
On appeal from an order denying a new trial, made
before the defendant was sentenced, the point when the
sentence was excessive cannot be raised. 175M359, 214NW
785.
Where sister of prossecutrix in a prosecution for
carnally knowing a female child under the age of 18
was a witness and during cross-examination, the father
of prossecutrix made a demonstration in the court room
and the court admonished the jury to disregard it, there
was nothing requiring a new trial. 172M327, 215NW
614.
Court cannot interfere as to matters of fact. 173M391, 215NW
262.
That attorney with consent of court and without ob-
jection by defendant, as associated county attorney, was no
ground for new trial. 176M305, 223NW141, 224NW144.

Indiscretion of counsel in the conduct of an appeal,
while not prejudicial, may be reviewed on appeal. State v.
Rowe, 250M172, 286NW46. See Dun. Dig. 2465.
Dig. 2500. will not interfere except in cases of abuse of such discretion. In a criminal case where there was no prejudicial error in admitting evidence, consisting of statements made by defendant's attorney to his counsel prejudicial. State v. Zemple, 196M159, 264NW587. See Dun. Dig. 2490.

Cumulative newly discovered evidence, not of character that would probably produce different result, did not require new trial. See Dun. Dig. 2490.

An order denying a motion for a new trial on the ground of newly discovered evidence held properly denied. State v. Quinn, 192M58, 256NW486. See Dun. Dig. 2490.

Court held not to have abused its discretion in a criminal case in denying new trial on ground of newly discovered evidence. State v. Hanks, 193M75, 258NW478. See Dun. Dig. 2490.

There could be no prejudice from the fact that the jury learned that accused had claimed and been accorded a legal right against compulsory incarceration in trial of co-defendant. 176M663, 223NW917.

No reversible error for failure to hear oral testimony on motion for new trial. 176M654, 221NW489.

Constitutionality of statute properly certified to court. 172M221, 217NW193.

District court has no jurisdiction in civil cases to certify questions to the supreme court. Newton v. M., 185M221, 218NW108.

JUDGMENTS AND EXECUTION THEREOF

10757. Judgment on conviction—Judgment roll. Statute directing district court not to try a person for a crime while he is in military service on active duty, but does not go to jurisdiction of, the court, and failure to comply with statute is no ground for collateral attack, as by habeas corpus or other collateral procedure. State v. Utech, 203M448, 281NW770. See Dun. Dig. 4132.

INDETERMINATE SENTENCES AND PAROLES

10765. Term of sentence.—Whenever any person is convicted of any felony or crime committed while on active duty in the Armed Forces of the United States, the court may fix, in lieu of any other sentence, a term of imprisonment less than the term required by law or prescribed by statute, if such term shall be fixed within the maximum term of such imprisonment, and shall sentence every such person to the state reformatory or to the state prison, as the case may require, and the person sentenced shall be subject to release on parole and to final discharge by the board of parole as hereinafter provided, but imprisonment under such sentence shall not exceed the maximum term fixed by law or by the court, if the court has fixed the maximum term prescribed by law or by the court. If the court has fixed the maximum term for such separate offenses shall be pronounced for each offense, and imprisonment thereunder may equal, but shall not exceed the total of the maximum terms provided for in said sentence. 176M654, 221NW489. See Dun. Dig. 4132.

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Constant instruction that accused was connected with other crimes, held to require new trial. State v. Klaftorn, 177M363, 225NW278.

Evidence of prosecuting attorney made while cross-examining defendant carrying insinuations that defendant had obtained money by false pretenses at other times, were improperly handled. State v. Nufer, 195M15, 271NW11. See Dun. Dig. 2490.

Exclusion of evidence held not of nature likely to prejudice defendant. State v. Puent, 198M7129. See Dun. Dig. 2490.

Proper argument by county attorney to jury was without prejudice, where it was stopped by court who stated that it should be disregarded. State v. Davis, 196M16, 270NW918. See Dun. Dig. 2490.


Properly denied, where it consisted of affidavit, discredit-
same political party. In case of a vacancy it shall be constituted under the provisions of law in force at the time. No more than two members of said board shall belong to the same political party. It shall be deemed a continuation of the board of parole constituted under the provisions of this act. Said board shall keep a record of all its proceedings. Said compensation and said expenses shall be paid out of the revenue fund in the same manner as the salaries and expenses of other state officers are paid. All of the other expenses of the state board of parole shall be audited and allowed by the state board of control and paid out of the funds appropriated for the maintenance of the penal institutions of the state in such proportions as the state board of control shall determine. Said board of parole shall furnish such estimates of anticipated expenses and returns as the state board of control may from time to time require.

10768. Parole board.—A board having power to parole and discharge prisoners confined in the state prison, state reformatory or state reformatory for women is hereby created, to be known and designated as the "State Board of Parole." Said board shall be composed of a chairman and two other members, each shall be appointed by the governor with the advice and consent of the senate and who, except as hereinafter provided, shall hold office for a term of six years from the first Monday in January next after such appointments are made until the first Monday in January 1937, one member until the first Monday in January 1938, and one member until the first Monday in January 1939. Not more than two members of said board shall belong to the same political party. In case of a vacancy it shall be filled for the unexpired term in which such vacancy occurs as herein provided for original appointments. Said board shall keep a record of all its proceedings and of the character of any designation of its members as secretary or as any other person in its employ. ('11, c. 298, §3; G. S. '13, §9265; '13, c. 250, §1; '21, c. 56, §1; G. S. '14, c. 45, §2.)

10769. State board of parole continued by Act Apr. 22, 1939, c. 10767. Present law not changed.—The board of parole constituted under the provisions of this act shall be deemed a continuation of the board of parole constituted under the provisions of law in force at the time of the passage thereof, and all matters and proceedings relating to any parole or pardon granted by the said Board and the duties of that office by any parole agent or any other person in its employ. ('11, c. 298, §3; G. S. '13, §9265; '13, c. 250, §1; '21, c. 56, §1; G. S. '14, c. 45, §2.)

10770. Powers of board.—Limitations.—The said State Board of Parole may parole any person sentenced to confinement in the state prison or state reformatory, provided that no convict serving a life sentence for murder shall be paroled until he has served a term of thirty-five years. Any convict serving a sentence which would have been allowed for good conduct had his sentence been for 35 years, and then only by the unanimous consent in writing of the members of the Board of Pardons. Upon being paroled and released, such convict shall remain in the legal custody and under the control of the State Board of Parole subject at any time to be returned to the state prison, the state reformatory or the state reformatory for women by virtue of the said Board. When the legal custody of such convict shall revert to the warden or superintendent of the institution, the written order of the Board of Parole, certificated by the chairman of said Board, or any peace officer or state parole and probation agent to take and detain any parolee or probationer to the State Board of Parole for its action. Paroled persons, and those on probation to the State Board of Parole, may be placed within or without the boundaries of the state at the discretion of the said Board and the limits fixed for such persons may be enlarged or reduced according to their conduct.

In considering applications for parole or final release said board shall not be required to hear oral argument from any attorney or other person not connected with the case. If the request be granted the court may impose the lighter sentence if it shall so elect. The power of the court to fix the maximum term of imprisonment shall extend to indeterminate sentences imposed under Laws 1927, Chapter 236 [§§9931 to 9941], Art. 6, §1, Apr. 16, 1911, §2; G. S. '13, §9271; Apr. 5, 1923, c. 110, §1.}

10769. Chairman of board—salary—compensation of members.—The salary of the chairman of said state board of parole shall be the sum of $4500.00 per annum, payable as hereinafter provided. Each of the other members of said board shall receive as compensation the sum of $150 per year. Said compensation and said expenses shall be paid out of the funds appropriated for the maintenance of the penal institutions of the state in such proportions as the state board of control shall determine. Said board of parole shall furnish such estimates and reports as the state board of control may from time to time require. 

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CHAPTER 105
State Prison and State Reformatory

STATE PRISON

10778. Location and management.
State board of control abolished and functions and powers transferred to director of public institutions by Act Apr. 22, 1936, c. 451, Art. 6, §3, ante §183-103, 3189-104.

10779. Parole of prisoners. The state board of parole is hereby authorized and empowered to grant to any prisoner in the state prison, state reformatory or state reformatory for women, a temporary parole under guard, not exceeding three days, to any point within the state, upon payment of the expenses of such prisoner and guard.

10772. Credits for prisoners. A resident of Minnesota imprisoned in the reformatory for women shall continue to be a resident of Minnesota but is not a citizen until restored as provided in this section and sec. 10773. Op. Atty. Gen., Apr. 7, 1933.


10775. Supervision by board—agents. Said board of parole as far as possible, shall exercise supervision over paroled and discharged convicts and when deemed necessary for that purpose, may appoint state agents, fix their salaries and allow them traveling expenses. It may also appoint suitable persons in any part of the state for the same purpose. Every such agent or person shall perform such duties as said board may prescribe in behalf of or in the supervision of prisoners paroled or discharged from the state prison, state reformatory, or other public prison in the state, including assistance in obtaining employment and the return of paroled prisoners, and in addition thereto shall, when so directed by the state board of control, investigate the circumstances and conditions of the dependents of prisoners of the state penal institutions and report their findings and recommendations to the warden and superintendent of the respective institutions and to the state board of control. Such agents and such persons shall hold office at the will of the board of parole and the person so appointed shall be paid reasonable compensation for the services actually performed by them. Each shall be paid from the current expense fund of the institution or institutions for whose benefit he was appointed. (11, c. 299, §10; G.S. '13, §9277; Apr. 14, 1931, c. 161, §44; Apr. 5, 1935, c. 110, §2.)


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10777. Rules governing paroles, etc. A member of board of parole attending prison congress in another state under authority from the board shall be paid to compensate him $15.00 per day and traveling expenses. Op. Atty. Gen., Oct. 20, 1932.

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