

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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5647. Reciprocity in licenses.—Whenever, so long as, and in so far as the state of South Dakota, confers upon the licensees of this state reciprocal rights, privileges, and immunities, any license to take water fowl, any license to take fish by angling or spearing, and any commercial fishing or clamming license issued by such state shall entitle the licensee to all the rights, privileges, and immunities in and upon the waters of Big Stone Lake and this state, enjoyed by the holders of equivalent licenses issued by this state; subject, however, to the duties, responsibilities, and liabilities imposed on its own licensees by the laws of this state. ('19, c. 400, §139; Apr. 21, 1931, c. 298, §2.)

Reciprocal and retaliatory legislation. 21MinnLawRev 371.

5648. Open season for fishing in boundary waters.—In all cases where the date for the opening of the season for taking fish in waters forming a common boundary between this and other states and the Province of Ontario, is later, or where the day for the closing of the season for taking fish in such waters is earlier in Minnesota than it is in any other state or states or Province of Ontario bounded by such waters, then and in such case the director of game and fish may promulgate and publish an order fixing the days for the opening and the closing of the season for taking fish in such waters coincident with the opening and closing days of the season of such other state or Province of Ontario for taking fish in such waters, and thereafter and until said order is amended or repealed such open season for taking fish in such water shall be as in said order provided. Provided, further, that those waters lying within the State of Minnesota and forming a common boundary between the state of Minnesota and the Province of Ontario and/or Manitoba, not already closed, shall be closed to commercial fishing when the proper authorities of the province of Ontario and/or Manitoba shall close to commercial fishing that portion of such boundary waters forming a common boundary between the State of Minnesota and the province of Ontario and/or Manitoba as lie within the province of Ontario and/or Manitoba. It is provided further that these

waters may be closed separately in the event that the proper authorities of the province of Ontario and/or Manitoba close one or more body or bodies of water and not all such boundary waters. The director of game and fish is hereby authorized and empowered to enter into arrangements jointly with the proper authorities of such other state or Province of Ontario bounded by such waters for the supervision of fishing therein, for the closing thereof, for the stocking thereof, for the enforcement of fishing laws of both states or Province of Ontario in such water, and for locating the boundary line. ('21, c. 193, §1; Apr. 21, 1933, c. 392, §20; Apr. 29, 1935, c. 388, §1.)

Two states may contract for the removal of rough fish from waters forming part of common boundary and divide the proceeds. Op. Atty. Gen., Nov. 20, 1933.

An Iowa license cannot be recognized on Minnesota side of a lake constituting common boundary except under reciprocity arrangement. Op. Atty. Gen., Jan. 24, 1934.

A Minnesota fishing license should be required from a Canadian guide who crosses border and takes Minnesota fishing parties into Minnesota waters even though he does not fish himself. Op. Atty. Gen. (209h), Aug. 19, 1934.

An order closing to commercial fishing waters lying entirely on Minnesota side of boundary would be valid, there being no reciprocal "arrangement" with Canadian province. Op. Atty. Gen. (211b-2), Jan. 15, 1935.

5648-1. Inconsistent acts repealed.—That all acts and parts of acts inconsistent herewith are hereby modified and amended so far as may be necessary to give full force and effect to the provisions of this act. (Act Apr. 29, 1935, c. 388, §2.)

PART XI.—DEFINITIONS AND CONSTRUCTION

5649. Definitions.

Op. Atty. Gen., Jan. 18, 1932; note under §5585.

"Set line" defined. Op. Atty. Gen., June 15, 1933.

(7).

Commissioner may authorize hunting of deer by bow and arrow, but cannot limit such taking to certain area and exclude use of rifle therein. Op. Atty. Gen., July 28, 1933.

A Minnesota fishing license should be required from a Canadian guide who crosses border and takes Minnesota fishing parties into Minnesota waters even though he does not fish himself. Op. Atty. Gen. (209h), Aug. 19, 1934.

Discussion as to what constitutes proof of possession of unlicensed net. Id.

CHAPTER 33

Public Libraries

PUBLIC LIBRARIES AND READING ROOMS

5661. Establishment and maintenance.

Where library board has the funds for a building, the village council may set aside village land for the building without submission of matter to electors. Op. Atty. Gen., July 23, 1929.

Member of library board may not enter into contract of employment with such board. Op. Atty. Gen. (59a-26), May 8, 1934.

A library board may not be abolished in absence of statute permitting it, and it is immaterial that village has been incorporated as a city of the fourth class. Op. Atty. Gen. (624e-11), Oct. 4, 1934.

Village cannot contract with school district for establishment and maintenance of public library under supervision of school district, but village may place library books in school library and retain title. Op. Atty. Gen. (476a-6), Feb. 19, 1936.

A township or village should not appropriate money out of general fund for library purposes, but should make provision by a levy. Op. Atty. Gen. (285B), June 30, 1939.

5662. When established by vote—Existing libraries.

Manner of choosing library board for public library in a city of fourth class with commission form of government under home rule charter which does not describe manner of choosing the board, discussed. Op. Atty. Gen., Nov. 29, 1933.

5663. Directors—Term—Removal.

Positions of member of library board and member of school board are not incompatible. Op. Atty. Gen., Aug. 1, 1933.

Appointment or election of members of library board should be prescribed by terms of home rule charter. Op. Atty. Gen. (285a), Aug. 24, 1937.

All appointments to board of directors must be approved by council. Op. Atty. Gen., (69a-26), Aug. 25, 1938.

5665. Organization of board—Rules, etc.

Op. Atty. Gen., July 23, 1929; note under §5661.

No part of library fund may be used in remodeling village hall so as to correspond with library building to be attached to it. Op. Atty. Gen., May 7, 1929.

The Home Rule Charter of St. Cloud would indicate that the library board could not extend money in excess of actual cash received. Op. Atty. Gen., Jan. 5, 1931.

Member of library board may not appoint himself as librarian. Op. Atty. Gen., Jan. 10, 1934.

Part of library fund may be used to defray part of cost of building and furnishing village hall, a portion of which will be used by library board for library and reading room purposes. Op. Atty. Gen. (481b-2), June 12, 1935.

County may levy a tax for the purpose of assisting in maintenance of public library of a city. Op. Atty. Gen. (285B), March 25, 1939.

Library board members should not be employed and paid by same board of which he is a member. Op. Atty. Gen. (285B), June 30, 1939.

5669-1. Certain villages and towns to establish portable and circulating libraries.—The Board of Supervisors of any organized town containing 5 or more government townships, and having a total population including villages therein which are not separated from the town for election and assessment pur-

poses, of 15,000 inhabitants, may establish and maintain a portable circulating library for the education, benefit and welfare of the people of such town.

For this purpose the board may purchase and equip a motor vehicle and may furnish a driver, a librarian, and such further clerical assistance as it shall deem reasonably necessary for the maintenance of such library, and the library board of such village is hereby authorized to cooperate with the town in the maintenance thereof, and to loan books and periodicals to the town on such terms as it shall prescribe.

All expenditures made for the purpose of this Act shall be within and not above the limitations now prescribed by law for the general fund of such town. (Act Apr. 8, 1933, c. 176, §1.)

5669-2. Expenditures legalized.—Expenditures heretofore made by the town board of any such town for the purposes authorized by this Act are hereby validated and legalized. (Act Apr. 8, 1933, c. 176, §2.)

5670. Law libraries.—In counties having a population of two hundred thousand or more, the district court may authorize and require the county board, or other body in charge of the courthouse, to provide rooms therein for the uses of a law library, whenever the owner of any such library shall offer to furnish and maintain the same for a term of at least ten years, and to give the free use thereof, under proper regulations, to all the judges of the district, municipal, and probate courts of the county, and to all city and county officials having offices at the county seat. Upon petition therefor being filed with the clerk, setting forth a proposal and plan for the furnishing of such library, and the reasons for accepting the same, the court shall fix a time for hearing thereon, and direct that a copy of its order, and of said petition, be served upon the county attorney, and upon the attorney of the city constituting the county seat, at least eight days before the date so fixed. Such attorneys shall appear and oppose such petition, if they or either of them believe that the public interests would not be subserved by granting the same. The court shall hear all parties appearing, and inquire as to the character of the library offered, and as to the ability of its owner to carry out the terms of the offer made and to meet the conditions proper to be imposed. If satisfied that such library should be installed, the court shall make an order therefor, prescribing the duties of the owner in respect thereto, directing that suitable rooms be provided in the courthouse for its accommodation with necessary light, heat, and janitor service, and requiring the county board and city council to appropriate annually, until the further order of the court, not less than twelve hundred dollars nor more than seventeen hundred fifty dollars for the salary of a librarian and other necessary expense of caring for such library; which sum shall be apportioned, by the order, between such city and county. The owner shall retain the title and management of the library, appoint the librarian thereof, and make rules and regulations for its use; but no such rules shall restrict the access of public officials thereto, unless the same are approved by a judge of the district court. The library shall be maintained by the owner in reasonable repair and efficiency, and upon his failure so to do the court may cancel any or all orders made hereunder, and require the library to be removed. The several officials of the city and county shall take all necessary steps for carrying out the provision of this section and all orders of the court made thereunder. (R. L. '05, §2264; G. S. '13, §4926; Apr. 24, 1931, c. 327.)

Laws 1937, c. 129, provides that in counties having assessed value in excess of \$22,800,000, population of 27,000 to 28,000, and area of 90 to 92 townships, the county board may establish a law library.

Act Mar. 28, 1939, c. 96, provides that counties having 41 to 43 congressional townships, and assessed valuation of \$7,000,000 to \$8,000,000, law libraries are established, and indicating method of financing and conduct of same.

Counties under 100,000 inhabitants cannot appropriate money for law libraries. Op. Atty. Gen., Apr. 13, 1933.

5670-2. Law libraries in certain counties.—In each county now or hereafter having more than 475,000 inhabitants there may be established a county law library. (Act Apr. 17, 1933, c. 291, §1.)

Counties under 100,000 inhabitants cannot appropriate money for law libraries. Op. Atty. Gen., Apr. 13, 1933.

5670-2a. To be public libraries.—The use of such county law library shall be free to the judges of the state, to state officials, to all the judges of the district, municipal and probate courts of the county, to all the city and county officials, to the members of the bar, and to the inhabitants of the county, under proper regulation. (Act Apr. 17, 1933, c. 291, §2.)

5670-2b. Existing law libraries may be turned over to counties.—In each county to which this Act is applicable when any law library association or corporation owning or maintaining a law library at, or convenient to, the courthouse in such county shall give written notice to the judges of the district court in and for such county that it will permit the free use of its library in accordance with the provisions of Section two (2) of this act upon the payment to it of the fees herein provided for, and when the certificate of a majority of such judges setting forth the fact that such law library association or corporation will permit such free use of its law library shall be filed in the office of the clerk of such district court, such law library shall become and be a county law library and entitled to receive the fees herein provided. (Act Apr. 17, 1933, c. 291, §3.)

5670-2c. Fees in civil actions to be collected for upkeep of library.—After the filing of such certificate, it shall be the duty of the clerk to collect in each civil suit, action, or proceeding filed in such court, in the manner in which other fees are collected therein and in addition thereto, as law library fees, the sum of one dollar from the plaintiff or person instituting such suit, action, or proceeding at the time of the filing of the first paper therein and the sum of one dollar from each defendant, respondent, intervenor, or other party who shall appear therein, either separately or jointly, to be collected at the time of the filing of the first paper by such defendant, respondent, intervenor, or other party, or at the time when his or their appearance is entered in the case. Such law library fees shall be costs in the case and taxable as such. (Act Apr. 17, 1933, c. 291, §4.)

5670-2d. Not to apply to certain actions.—The provisions of Section four (4) of this Act shall not apply to actions commenced by the state or any municipality therein, to garnishment proceedings, or to compensation awards. (Act Apr. 17, 1933, c. 291, §5.)

5670-2e. Clerk to pay collections to association monthly.—On the first day of each month the clerk of the court making such collections shall pay to such law library association or corporation all the law library fees collected for the preceding month, taking its receipt therefor. (Act Apr. 17, 1933, c. 291, §6.)

5670-2f. No fees paid in certain cases.—So long as such payments are made by the clerk to the law library association or corporation, no cash payments required to be made under the provisions of the General Statutes 1923, Section 5670, as amended by Laws 1931, Chapter 327, shall be made to such law library association or corporation. (Act Apr. 17, 1933, c. 291, §7.)

5670-2g. Library association to retain title and management.—The law library association or corporation shall retain the title and management of the county law library, appoint the librarian thereof, and make rules and regulations for its use, which may provide that no books shall be removed from the

library except by the judges of the district, municipal and probate courts of the county, without the payment of such dues or making such deposit as the law library association or corporation may provide. (Act Apr. 17, 1933, c. 291, §8.)

5670-2h. Library association to maintain library.—The county law library shall be maintained by the law library association or corporation in a manner satisfactory to a majority of the judges of the district court in and for such county. Upon its failure so to do, whenever a certificate of a majority of the judges of the district court in and for such county setting forth the fact that the law library association or corporation has so failed is filed with the clerk of said court, the law library fees herein provided for shall cease, and such law library shall thereafter be subject to such laws for its support as exist at the date of the passage of this Act. (Act Apr. 17, 1933, c. 291, §9.)

5670-2i. To become public library, when.—When any law library association or corporation owning such a library shall give the written notice provided in Section 3 hereof, said library shall become a public library as provided in Sections 1 and 2 hereof but such public use of said library and the support thereof as herein provided shall cease at the end of one year from the commencement of such arrangement, except in the event hereinafter set out. (Act Apr. 17, 1933, c. 291, §10.)

5670-2j. Liquidation of library association.—If and when during said one year period at least 95% of the stockholders of such association or corporation shall deposit with the District Court of said County their shares of stock endorsed to said county so that title of 95% of the stock of said association shall be vested in said county, it shall thereupon become the duty of the officers of said corporation to bring an action in the District Court of said County to liquidate said corporation. The owners of the remaining stock not endorsed to said county shall be made defendants and the court upon the hearing of trial of said action shall decree a dissolution of said corporation and shall decree to said stockholders who have not endorsed their stock to said county such portion of the assets of said corporation in kind in proportion as the number of shares owned by such stockholders bears to the whole number of stock outstanding. Such division shall be made by the court or by a referee appointed by the court for that purpose. Upon such division being made all of the personal property of such library association or corporation except the portion so allotted to said stockholders, shall become the property of said county and said library shall thereafter be owned and maintained by said county in the manner following. (Act Apr. 17, 1933, c. 291, §11.)

5670-2k. County board may provide for maintenance in certain cases.—For the support of said library there shall be allotted the fees prescribed in Section 4 herein and such other amounts as are now provided by law; provided, however, that the board of county commissioners of such county may, in their discretion, provide for the support and maintenance of such county law library out of county funds, and if such provision for such support and maintenance is made the county commissioners shall certify that fact to the Clerk of the District Court of such county, and thereupon the collection of fees provided for in Section 4 hereof shall cease. (Act Apr. 17, 1933, c. 291, §12.)

5670-2l. Board of law library trustees to manage library.—The management of said library shall be under a Board of Law Library Trustees to be chosen for the terms and in the manner following:

Said board shall consist of seven members;

Two district judges of said county to be selected by the District Judges of said county;

One municipal judge to be selected by the Municipal Judges of the principal city in said county;

Three members of the bar to be elected by the members or stockholders of the oldest incorporated bar association in said county;

One member of the Board of County Commissioners to be selected by said County Board annually at its annual election of officers of said Board. (Act Apr. 17, 1933, c. 291, §13.)

5670-2m. Term of office.—All members of said Trustees except the County Commissioner shall hold office for four years except the first Board, which shall be divided into two classes, with three trustees in each class, one class holding office for four years and one class holding office for two years. Immediately after the selection and election of said Trustees they shall be divided into said classes by lot. (Act Apr. 17, 1933, c. 291, §14.)

5670-2n. Title of library to be in county.—The title to said library shall be in said county and said Board of Trustees may sue and be sued in the name of said county. Said Trustees shall serve without compensation. The Board shall elect one of their number, president and the librarian shall act as secretary. Said Board shall have authority to appoint a librarian and such assistants and clerical help as may be necessary and to fix their compensation. (Act Apr. 17, 1933, c. 291, §15.)

5670-2o. Fees to be paid to county treasurer.—The Clerk of the District Court of said county shall thereafter pay all the library fees collected by him, pursuant to Section four thereof, to the County Treasurer of said County, who is hereby authorized to disburse the same and any other moneys belonging to said library, upon the order of said Trustees to pay the necessary expenses of said library. (Act Apr. 17, 1933, c. 291, §16.)

5670-3. Law library established.—In each county now or hereafter having not less than 220,000 and not more than 330,000 inhabitants, there is hereby established a Law Library. (Act Apr. 15, 1935, c. 184, §1.)

5670-3a. Who may use.—The use of such Law Library shall be free to the Judges of the state, to state officials, to all the Judges of the District, Municipal and Probate Courts of the county, to all the city and county officials, to the members of the bar, and to the inhabitants of the county, under proper regulation. (Act Apr. 15, 1935, c. 184, §2.)

5670-3b. Law library fees.—It shall be the duty of the Clerk of the District Court of such county to collect in each civil suit, action or proceeding filed in such Court, in the manner in which other fees are collected therein and in addition thereto, as Law Library fees, the sum of 50 cents from the plaintiff or person instituting such suit, action or proceeding, at the time of the filing of the first paper therein, and the sum of 50 cents from the defendant or other adverse or intervening party, or any one or more of several defendants, or other adverse or intervening parties appearing separately from the others to be collected when his or their appearance is entered in such action or proceeding or when the first paper on his or their part is filed therein; provided that for the period of one year from the passage of this act the fee shall in each case be one dollar instead of 50 cents. Such Law Library fees shall be costs in the case, and taxable as such, and shall be allotted for the support of said library. (Act Apr. 15, 1935, c. 184, §3.)

Fee provisions of Laws 1935, Sp. Sess., c. 72, apply to Ramsey County. Op. Atty. Gen. (144b-15), Feb. 3, 1935.

5670-3c. Limitations.—The provisions of Section 3 of this act shall not apply to actions or proceedings commenced by the State or any municipality therein, to garnishment proceedings, to the filing of transcripts, to compensation awards or to complaints in intervention in receivership proceedings. (Act Apr. 15, 1935, c. 184, §4.)

5670-3d. Fees to be paid to county treasurer.—On the first day of each month the Clerk of the Court making collection of such fees shall pay the same to the County Treasurer of said county, taking his receipt therefor, and said County Treasurer is authorized and directed upon itemized vouchers approved by the Board of Law Library Trustees to disburse the same and any other money belonging to said Board to pay the necessary expenses of equipping and maintaining said Library. (Act Apr. 15, 1935, c. 184, §5.)

5670-3e. Law library trustees.—The management of said Law Library shall be under a Board of Law Library Trustees, who shall serve without compensation, to be chosen for the terms and in the manner following: Said Board shall consist of seven members, namely, two District Judges of said County to be selected by the District Judges thereof; one Municipal Judge to be selected by the Municipal Judges of the principal city in said county; three members of the bar to be elected by the oldest bar association in said county affiliated with the Minnesota State Bar Association in the manner provided in the by-laws of said County Bar Association; one member of the Board of County Commissioners, to be selected by said County Board annually at its annual election of officers of said board, except that the first selection of said County Board shall be made as soon after the estab-

lishment of the public Law Library as practicable.

All members of said Board of Law Library Trustees except the County Commissioner shall hold office for four years, except the first board, which shall be divided into two classes, with three trustees in each class, one class holding office for four years, and one class holding office for two years. Immediately after the selection and election of said trustees they shall be divided into said classes by lot.

The Board of Law Library Trustees shall elect one of their members president and another member secretary, and the board shall have authority to appoint a librarian and such assistants and clerical help as may be necessary, and to fix their compensation and to provide rules and regulations for the management thereof. (Act Apr. 15, 1935, c. 184, §6.)

5670-3f. May acquire libraries.—The Board of Law Library Trustees in the name of the County may acquire and maintain such library by gift, grant, donation, bequest, purchase, lease or loan, and title to such library shall vest and be in said county. Said Board of Law Library Trustees may sell or exchange such items in said library to such persons and upon such terms as said board may deem best. (Act Apr. 15, 1935, c. 184, §7.)

Act Apr. 20, 1939, c. 325, limited by its descriptive terms, to Polk, authorizes establishment of law library. It is probably unconstitutional as local and special.

CHAPTER 33A

Historical Societies

5670-11. County Board or City Councils may furnish room for Historical Societies.—That the county board of any county or the governing body of any municipal corporation, or public library in the State of Minnesota, are hereby authorized and empowered to furnish a room, or rooms, in the court house of the county, or in the municipal building, or public library, as the case may be, for the use of the historical society of such county, and to furnish light and heat for such room or rooms. (Act Apr. 24, 1929, c. 324, §1.)

County may not make appropriation to historical society to be used for purpose of erecting a building. Op. Atty. Gen. (107b-1), Aug. 2, 1938.

5670-12. Appropriation.—That the county board of any county in the State of Minnesota, having a population of less than twenty-five thousand inhabitants, according to the last United States census, is hereby authorized and empowered to appropriate out of the revenue fund of such county, such sum not exceeding one thousand dollars annually, and in counties where the population is not less than twenty-five thousand inhabitants nor more than seventy-five thousand inhabitants, the county board of such county is hereby authorized to appropriate a sum not exceeding the

sum of two thousand dollars annually, and in counties where the population is more than seventy-five thousand inhabitants the county board is hereby authorized to appropriate a sum not exceeding three thousand dollars annually, as it may deem advisable, to be paid to the Historical Society of such counties respectively, to be used for the promotion of historical work within the borders thereof, and for the collection, preservation and publication of historical material, and to disseminate historical information of the county, and in general to defray the expense of carrying on the historical work in such county.

Provided, that no county board is authorized to appropriate any funds for the benefit of any county Historical Society unless such society shall be affiliated with and approved by the Minnesota Historical Society. (Act Apr. 24, 1929, c. 324, §2.)

5670-13. Application.—This act shall not affect any other act relating to historical work, nor apply to any county which is now authorized by law to make appropriations for such work. (Act Apr. 24, 1929, c. 324, §3.)

CHAPTER 34

State Printing

5671. State printing commission.

Editorial note.—Commission abolished and powers and duties transferred to commissioner of administration. See §53-18u, ante.

"Drink more milk, eat more butter for your health and prosperity" must be printed on all state printing. Laws 1939, c. 29, app. Feb. 24.

5672. State expert printer.

Office of state expert printer abolished by §53-18u, ante. See note under §5671.

5676. Advertisement for bids.

State printer must advertise in five largest cities and wait 30 days thereafter to open bids. Op. Atty. Gen. (1980c-28), June 7, 1934.

5680-1. Appropriation for publication of official guide book.—There is hereby appropriated to the state auditor from any moneys in the state treasury not otherwise appropriated, the sum of \$1,500 for a revolving fund, the moneys of such fund to be used for the purpose of republishing the official state capitol guide books and history. (Apr. 24, 1937, c. 396, §1.)

In republishing official state capital guide book and history, state auditor has implied authority to bring it down to date and make necessary changes in wording and phraseology. Op. Atty. Gen. (24a), Jan. 21, 1938.