

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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MASON PUBLISHING CO.  
SAINT PAUL, MINNESOTA  
1940

**7239. Application of act.**

Negotiable Instrument Act did not repeal §7247 relating to obtaining signature by deceit, trick or artifice. *Wismo Co. v. M.*, 186M593, 244NW76.  
 If facts making a defense under §7247 are established a purchaser of note in due course is not protected. *M & M Securities Co. v. D.*, 190M57, 250NW801. See Dun. Dig. 1019.

MISCELLANEOUS PROVISIONS

**7242. Contracts due on holidays, etc.**

Public business transacted on a legal holiday is legal in case of necessity, existence of which will be presumed in absence of a showing to contrary. *Ingelson v. O.*, 199M422, 272NW270. See Dun. Dig. 3433, 3436, 9064.

**7243. Following day deemed holiday, when.**

Where memorial day falls on Sunday, custom of observing following day as memorial day does not warrant treasurer in accepting payment of first half of taxes without penalty on June 1st. *Op. Atty. Gen.* (276f), May 26, 1937.

**7247. Instrument obtained by fraud.**

Evidence sustained verdict against maker and guarantor as against claim of fraud. 171M216, 213NW902.  
 "Trick or artifice" must deceive, and defense was without merit where there was affirmance by signer after knowledge of the precise character of the instrument. 172M126, 214NW924.

Evidence held to show that misrepresentations were made by payee in note. 174M115, 218NW464.

Finding that there was no fraud or misrepresentation by cashier of bank in transaction in which note was given held sustained by evidence. 174M261, 219NW93.

Evidence held sufficient to establish defense under this section, which creates a new defense that is not lost by the mere fact that the payee or holder of the note

becomes insolvent and goes into the hands of a receiver after its execution. *Simerman v. H.*, 178M31, 225NW913.

This section was not repealed by Negotiable Instrument Act. *Wismo Co. v. M.*, 186M593, 244NW76. See Dun. Dig. 1019.

Evidence held to sustain finding that signature to note was obtained by deceit and artifice without negligence on part of maker. *Wismo Co. v. M.*, 186M593, 244NW76. See Dun. Dig. 1019.

In action on notes, fraud held for jury. *Wiebke v. E.*, 189M102, 248NW702. See Dun. Dig. 1019.

Burden is upon maker of showing that his signature was obtained by fraud as to nature and terms of contract; that he did not believe instrument to be a promissory note; and that he was not negligent in signing without knowledge. *M & M Securities Co. v. D.*, 190M57, 250NW801. See Dun. Dig. 1019.

If facts making a defense under §7247 are established, a purchaser of note in due course is not protected. *Id.*

Prejudicial error was not committed in permitting defendant to introduce testimony of fraud sufficient as a defense at common law without first producing affirmative proof that plaintiff was not a holder in due course and so making an issue for jury upon evidence tendered by plaintiff. *Id.* See Dun. Dig. 424.

Where defense to note is based on actual or common-law fraud merely consisting of misrepresentations as to merchandise sold, proof of absence of negligence is not essential as in case of note obtained by fraudulent trick or artifice. *Id.* See Dun. Dig. 1018.

Note given for corporate stock, held not obtained by fraud or misrepresentation. *Edson v. O.*, 190M444, 252NW217. See Dun. Dig. 2041b.

Evidence sustains finding that there was no fraud in obtaining signature of defendant to vote. *Erickson v. H.*, 191M177, 253NW361. See Dun. Dig. 1019.

A synthesis of the law of misrepresentation. 22MinnLawRev939.

CHAPTER 52

Partition Fences

**7248. Fence viewers.**

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

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

Provisions relating to partition fences do not apply to land forfeited to state for taxes. *Op. Atty. Gen.* (631h), May 23, 1938.

**7249. One barbed wire permitted with woven wire as a legal fence.**

Where owner of land fences parts of three sides, adjoining owner on fourth side is required to erect and maintain a similar fence of like character and quality for distance of one-half of fourth side. *Op. Atty. Gen.* (631f), June 27, 1938.

**7250. Occupants to maintain.**

Land in part woodland, meadow and slough, adjoining other lands not under plow, held not "improved" so

as to impose obligation to build joint line fence. *Op. Atty. Gen.*, Apr. 28, 1932.

A village must maintain its share of partition fence as to land outside village limits used in connection with water system of village operating in both a proprietary capacity and governmental capacity. *Op. Atty. Gen.*, Mar. 24, 1934.

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

Right to fence on a section line depends upon whether or not a roadway legally exists. *Op. Atty. Gen.* (631h), July 18, 1939.

**7266. Viewers in counties not divided.**

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

CHAPTER 53

Estrays and Beasts Doing Damage

BEASTS DOING DAMAGE

**7274. Who may distrain.**

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

**7275. Notice to owner.**

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

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

MISCHIEVOUS DOGS

**7284. Owners or keepers of dogs liable for damage done.**

Liability of owners or keepers of animals. 22MinnLawRev1042.

**7285. Keeping after notice.**

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

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

**7286. Dogs worrying livestock or poultry.**

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

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