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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for purposes of impeachment. Jache's Estate, 199M177, 271NW452. See Dun. Dig. 10348.

While a party may not impeach a witness called by him or his own testimony, he may contradict such testimony, especially narration of events, by other witnesses; but it was not error of which defendant may complain to exclude offer of evidence to contradict testimony of defendant given understandingly of a fact peculiarly within his own knowledge and apparently honestly and in good faith. Vondrashek v. D., 200M530, 274NW609. See Dun. Dig. 10351, 10356.

Facts tending to show that a witness is interested in result of litigation or is biased in favor of, or against, one of parties, or has a motive for favoring one party against the other, may be shown, as bearing on weight to be given testimony. Timm v. S., 203M1, 279NW754. See Dun. Dig. 3232.

It is competent to show that a witness was under influence of liquor at time of occurrences which he assumes to relate, in order to show impairment of his powers of observation and recollection. Olstad v. F., 204M118, 282 NW694. See Dun. Dig. 10343a.

It was error to exclude evidence of previous statements contradictory to those made by a witness upon trial. Id. See Dun. Dig. 10351.

A party is not bound by evidence of a witness to extent that he may not show a different state of facts by other witnesses. Keough v. S., 285NW809. See Dun. Dig. 10356.

Whether claim of surprise, made in support of a litigant's request for leave to impeach his own witness, is well founded in fact, is a preliminary question for the trial judge, and his ruling thereon will not be disturbed unless abuse of discretion appears. State v. Saporen, 285 NW898. See Dun. Dig. 10356.

There is no occasion for impeachment of a witness by party who calls him unless to caller's surprise he testifies adversely on some material point; and then impeachment must be confined to subject matter of surprising adverse statement. Id. See Dun. Dig. 10356.

Only function of impeaching testimony (consisting of previous contradictory statement of a witness) is negative, extrajudicial statement so used not being affirmative evidence of facts. Id. See Dun. Dig. 10351.

18. Striking out evidence.

Where plaintiff testified on direct examination that insured would have been plowing all afternoon in order to finish; and on cross-examination, she testified that her husband had told her that he was going to finish plowing that afternoon, denial of defendant's motion to strike answer given on direct examination as hearsay was not error. Pankonin v. F., 187M479, 246NW14. See Dun. Dig. 3290.

It was error to deny a motion to strike opinion evidence which cross-examination had shown to be based, insubstantial degree, upon an element improper to be considered in determining damage arising from establishment of a highway. State v. Horman, 188M252, 247 NW4. See Dun. Dig. 9745.

Court did not err in denying defendant's motion to strike out all evidence as to injury to plaintiff's kidney as a result of accident in question. Orth v. W., 190M193, 251NW127. See Dun. Dig. 2528.

19. Discovery.

In automobile collision case, court properly excluded notice served by plaintiffs upon defendant requiring him to state what information he had obtained at scene of accident. Dickinson v. L., 188M130, 246NW669. See Dun. Dig. 2735.

Where request of an autopsy in action on life policy was delayed until a few days before day set for trial, refusal to grant same cannot be held an abuse of discretion. Miller v. M., 198M497, 270NW559. See Dun. Dig. 4872(88).

20. Telephone conversations.

Use of transcripts of pamograph recorded conversations by court and counsel for their convenience while records reproduced conversations in court, transcriptions being identified as correct, but not introduced in evidence, was not prejudicial to defendant. State v. Raasch, 201M158, 275NW620. See Dun. Dig. 3245.

Part IV. Crimes, Criminal Procedure, Imprisonment and Prisons

CHAPTER 93

General Provisions

9906. Crimes defined and classified.

1. Definition of "crime," "offense," "misdemeanor."

Where defendant was permitted but not induced to complete the offense charged, the defense of entrapment is not available. State v. McKenzie, 182M513, 235NW274. See Dun. Dig. 2448b.

A penal statute creating a new offense must plainly inform those upon whom it operates where line of duty is drawn and what law will do if it is overpassed. State v. Northwest Poultry & Egg Co., 203M438, 281NW753. See Dun. Dig. 2417a.

An uncontrollable and insane impulse to commit crime, in mind of one who is conscious of nature and quality of act, is not allowed to relieve a person of criminal liability. State v. Probate Court, 287NW297. See Dun. Dig. 2406.

4. Acts constituting different offenses.

Multiple consequences of a single criminal act. 21 MinnLawRev805.

9907. Meaning of words and terms.

Op. Atty. Gen., Jan. 11, 1930.

9908. Rules of construction.

The provisions of the game law are to be construed according to the fair import of their terms, viewed in the light of the purpose of the law. 177M483, 225NW 430.

Where the Legislature declares an offense in terms so indefinite that they may embrace, not only acts commonly recognized as reprehensible, but also others which it is unreasonable to believe were intended to be made unlawful, the statute is void for uncertainty. State v. Parker, 183M588, 237NW409. See Dun. Dig. 8989.

Courts will favor conclusion that terms of a statute are reasonably certain if they are widely used in same sense in legislative enactment, and also language which has been a part of a statute for a long term of years. State v. Northwest Poultry & Egg Co., 203M438, 281NW 753. See Dun. Dig. 2417.

Courts are obliged to sustain legislative enactments as reasonably certain when possible and will resort to all acceptable rules of construction to discover a competent and efficient expression of legislative will, but are not free to substitute amendment for construction and thereby supply omissions of legislature. Id. See Dun. Dig. 2417.

9909. Persons punishable.

Indians are not subject to state prosecution for crimes on Bois Fort Indian Reservation, but non-Indians are. Op. Atty. Gen. (494b-19), May 31, 1935.

9912. Duress—How constituted.

176M175, 222NW906.

9914. Intoxication or criminal propensity no defense.

1. Intoxication.

Defendant in homicide case held not so intoxicated as to make that a defense. State v. Norton, 194M410, 260 NW502. See Dun. Dig. 2447.

9915. Criminal responsibility of insane persons.

Acts of cruel and inhuman treatment which result from a diseased mind are no cause for divorce. 171M 258, 213NW906.

Statute directing district court not to try a person for crime while he is in 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 by habeas corpus, on judgment of conviction. State v. Utecht, 203M448, 281NW775. See Dun. Dig. 2476a.

Fact that one is subject to epileptic fits does not exempt him from being tried for crime. Op. Atty. Gen., Jan. 16, 1933.

9916. Conviction of lesser crime, when.

Where entire course of trial not only indicates but compels conclusion that the only offense charged and involved at trial was that of sodomy, court did not err in refusing to submit to jury lesser offenses of indecent assault and assault in third degree. State v. Nelson, 199 M86, 271NW114. See Dun. Dig. 544.

9917. Principal defined.

Owner of business maintaining sign over sidewalk was liable for punishment for maintaining sign in violation of ordinance, although the sign was installed by a sign hanger and though ordinance provided that no one unless a licensed sign hanger should install any sign and should obtain a permit before installing one. 176M151, 222NW639.

Evidence sustains a conviction of manslaughter in the second degree. State v. Stevens, 184M286, 238NW673. See Dun. Dig. 4241.

Evidence held sufficient to sustain conviction of arson in third degree. State v. Lynch, 192M534, 257NW278. See Dun. Dig. 520a.

All persons concerned in the commission of a crime may be indicted and punished as principals. State v. Barnett, 193M336, 258NW508. See Dun. Dig. 2415.

Evidence held to warrant conviction of first degree assault though defendant was not present at time of assault, being a member of a racketeering gang. Id. See Dun. Dig. 534.

All persons concerned in arson may be indicted and punished as principals. State v. Tsiolis, 202M117, 277NW 109. See Dun. Dig. 2416.

Where defendant procured Arthur, 19 years old, to bring his friend Allen, 16 years old, to defendant's apartment, where he, in presence of Arthur, committed sodomy with Allen, and then with Arthur in presence of Allen, and was indicted for act with Allen, both boys being witnesses called by state, court charged correctly that Allen was an accomplice, but erred in charging that Arthur was not an accomplice as a matter of law. State v. Panetti, 203M150, 280NW181. See Dun. Dig. 2415.

A person may be convicted for riot even though not actively engaged therein when he was present and ready to give support if necessary. State v. Winkels, 204M466, 283NW763. See Dun. Dig. 2415.

Where one of a number engaged in high-jacking liquor shot prosecuting witness, and it is unknown which one fired shot, anyone of them may be prosecuted under an information for aiding and abetting John Doe, but any of them may also be informed against as principals. Op. Atty. Gen., Feb. 15, 1933.

Venue in abortion cases involving accomplices. Op. Atty. Gen. (133b-3), Oct. 15, 1935.

9918. Accessory defined.

Whether defendant charged with misprision of felony made disclosure "as soon as may be" within federal misprision statute, held question for jury. Neal v. U. S., (CCA8), 102F(2d)643.

In prosecution for being accessory after the fact and for misprision of felony evidence held to support conclusion of jury that principal was guilty of felony charged against him and that defendant had knowledge of the *fact. Id.*

To warrant conviction of being accessory after the fact to theft, burden was upon government to show the theft by the principal as charged, defendant's knowledge thereof, and his aid and assistance to principal to escape punishment by suppressing important evidence through concealment of fruits and proceeds of offense. Id.

To convict of misprision of felony proof must show that principal committed and completed felony prior to date of misprision and that defendant with full knowledge of fact failed to disclose it and affirmatively concealed the crime by positive acts, and proof of either failure to disclose or affirmative concealment without proof of the other is insufficient. Id.

Defendant did not waive statute of limitations by pleading guilty after his demurrer to information had been overruled. State v. Tupa, 194M488, 260NW875. See Dun. Dig. 4418.

9920. Certain duties of courts and juries.

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

9922. Punishment of misdemeanors when not fixed by statute.

Prosecutions under §3200-51 are to be in District Court, and maximum penalty is 90 days in jail and $100 fine and costs of prosecution. Op. Atty. Gen. (494b-23), Apr. 16, 1937.

If neither owner nor operator of a vehicle is a party to a strike, it is unlawful to interfere in any manner with operation of vehicle or operator thereof whether it be upon any of the public streets or highways or upon premises of any business establishment or elsewhere, and such violation is a misdemeanor within meaning of §10047 with punishment prescribed by §9922. Op. Atty. Gen. (270d-7), August 11, 1939.

9923. Punishment of gross misdemeanor when not fixed by statute.

Hardware Dealers' M. F. I. Co. v. Glidden Co., 284US 151, 52SCR69, aff'g 181M518, 233NW310; §3512, note 10.

Place of imprisonment for offense of checking at bank without funds should be county jail and not reformatory. Op. Atty. Gen. (605b-10), July 12, 1935.

Prisoners may be sentenced for gross misdemeanors to term less than a year in state reformatory for women. Op. Atty. Gen. (341k-8), Mar. 20, 1936.

9924. Crimes punishable under different provisions.

Multiple consequences of a single criminal act. 21 MinnLawRev805.

9930. Attempts—How punished.

Evidence held to warrant a conviction of attempt to commit rape. 171M515, 213NW923.

Evidence held to support conviction of attempt to commit arson. 173M368, 217NW378.

9931. Second offenses—Punishment.

The procedure prescribed in this section and in §§9931-1 to 9931-4 does not place the defendant twice in jeopardy. 175M508, 221NW900.

Laws 1927, c. 236 (§§9931 to 9931-4), is constitutional. 175M508, 221NW900.

Identity of names is sufficient prima facie evidence of *identities. 175M516, 221NW903.*

This section as it stood prior to 1927 amendment does not prevent fixing of maximum term of imprisonment under §10765. 179M532, 229NW787.

The prior convictions in order to be available for increased punishment must precede the commission of the offense for which sentence is being imposed. State v. McKenzie, 182M513, 235NW274. See Dun. Dig. 2503c.

Proof of identity, see Op. Atty. Gen., Apr. 28, 1929.

Minimum punishment is two years, in view of Mason's Stat. 1927, §9921-1. Op. Atty. Gen., July 19, 1929.

Judge has power to fix a maximum sentence of less than life for robbery of a bank. Op. Atty. Gen., Nov. 25, 1933.

9931-1. Conviction of three or more felonies—Punishment.

Op. Atty. Gen., Nov. 19, 1931; note under §9936.

This law applies where conviction of prior felony took place before law went into effect. Op. Atty. Gen., May 13, 1932.

Prior felony against juvenile, disposed of in district court, is considered prior conviction, though adjudication of delinquency by juvenile court is not conviction of crime. Op. Atty. Gen., May 13, 1932.

9931-2. Punishment not dependent upon indictment and conviction as previous offender.

Prosecution may be initiated by information though it may result in a sentence of imprisonment for more than ten years. 175M508, 221NW900.

9931-3. Same—Information, etc.

Section 10666 has no application to the procedure under this section and is not repealed by the act of which this section is a part. 175M508, 221NW900.

Court did not err in charging the jury "As you all know the defendant at this term of court was convicted of burglary in the third degree." 175M516, 221NW903.

9932. Imprisonment on two or more convictions.

Where execution of sentence was stayed and relator was placed on probation and was later sentenced and committed for a subsequent crime at which time stay of first sentence was revoked, the first sentence did not start to run until the expiration of the second sentence. 177M338, 225NW154.

Where defendant is brought before court having been convicted of two or more crimes and not having been sentenced on any of them, statute applies and sentences must be served consecutively. Op. Atty. Gen., Aug. 16, 1933.

Where defendant is convicted of one offense and is sentenced thereon and is convicted of second offense, second sentence can be served concurrently with first one. Id.

Where prisoner is under sentence for felony and commits another felony, statute applies and commission of second felony cannot be served concurrently with first sentence. Id.

Where one out on parole commits crime and receives sentence, and parole is suspended, new sentence should be added to old sentence as one continuous sentence, subject to classification of prisoner in due course at St. Cloud reformatory. Op. Atty. Gen. (341k-10), Aug. 11, 1937.

Where defendant was sentenced for two and a half years and was released on bond pending appeal, and later received a sentence from another judge for three years, to be concurrent with service of sentence in first conviction, defendant was entitled to credit on first sentence for time served on second sentence pending appeal on first sentence. Op. Atty. Gen. (341k-1), Aug. 13, 1937.

One under sentence for one felony when sentenced to another term of imprisonment could not serve second sentence concurrently with first sentence, though judgment so provided. Op. Atty. Gen. (341k-1), Aug. 23, 1938.

9934. Sentences of convicts.—Whenever a convict is sentenced to the state prison for more than one year, unless the exact period be fixed by law, the court shall so limit the term that it will expire between the months of March and November. Whenever a sentence may be imprisonment in a county jail, the offender may be sentenced to and imprisoned in a workhouse, if there be one in the county where he is tried or where the offense was committed—and if there be no workhouse in the county where the offender is tried or where the offense was committed, then the offender may be sentenced to and imprisoned in a workhouse in any county in this state; provided that the county board of the county where the offender is tried shall

have some agreement for the receipt, maintenance and confinement of the prisoners with the latter county. The place of imprisonment shall be specified in the sentence. But convicts may be removed from one place of confinement to another when so provided by statute. (R. L. '05, §4775; G. S. '13, §8494; Apr. 20, 1933, c. 329.)

Contempt is not a "crime" within §9934, and, in view of §9502, punishment can only be by imprisonment in county jail and not in a workhouse. 175M57, 220NW414.

This section, as amended by Laws 1933, c. 329, does not prevent release of prisoner at any time during year when sentence expires by reason of good conduct. Op. Atty. Gen., Aug. 25, 1933.

9936. Suspension of sentence.—That the several courts of record of this state having jurisdiction to try criminal causes shall have power, upon the imposition of sentence by said court against any person who has been convicted of the violation of a municipal ordinance or by-law, or of any crime for which the maximum penalty provided by law does not exceed imprisonment in the state prison for ten years, to stay the execution of such sentence which said court has imposed whenever the court shall be of the opinion that by reason of the character of such person, or the facts and circumstances of his case, the welfare of society does not require that he shall suffer the penalty imposed by law for such offense so long as he shall thereafter be of good behavior, and at any time after the imposition of sentence in all cases where the sentence imposed is to a county jail, work farm or work house, any such court of this state shall have like power upon application of a prisoner and after notice to the county attorney. Before suspending sentence in any such case the court may require an investigation and a written report concerning the previous history and conduct of the offender by the county probation officer where such officer is provided by law, and, in those counties or districts having no county probation officer, but in which the services of state probation agents are available, by such state officer. For the information of the court the chairman of the State Board of Parole shall advise the clerk of court in each county in the district to which a parole or probation agent has been assigned, of such appointment and that the services of such state agent are available to the court. ('09, c. 391, §1; G. S. '13, §8496; '21, c. 298, §1; Apr. 1, 1933, c. 133; Apr. 29, 1935, c. 324.)

In absence of statute court cannot change or modify valid sentence after expiration of term. State v. Carlson, 178M626, 228NW173.

A justice of the peace has no authority to permit a defendant to defer payment of any part of the fine, but he has authority to receive the fine at any time. Op. Atty. Gen., Sept. 5, 1931.

A municipal court organized under the 1895 law is a court of record, and judge thereof has power to suspend jail sentences after the prisoner has commenced serving the same upon notice to the county attorney. Op. Atty. Gen., Sept. 22, 1931.

Since the maximum penalty upon conviction of forgery in the second degree with a prior conviction is twenty years, court is without authority to stay execution of sentence, even though judge imposes a maximum sentence of less than ten years. Op. Atty. Gen., Nov. 19, 1931.

Any court having criminal jurisdiction, even though not court of record, may now suspend sentences. Op. Atty. Gen., Nov. 24, 1933.

A justice of the peace has power to suspend a sentence, and this authority extends to cases where defendant has partially served his sentence. Op. Atty. Gen. (266b-21), July 20, 1934.

A justice of the peace has no power to suspend a sentence. Op. Atty. Gen. (266b-21), No. 5, 1935.

Municipal courts may suspend payment of fine, and are not responsible for fines not collected. Op. Atty. Gen. (306b-6), June 1, 1937.

9937. Suspension of sentences and probation.—Such stay shall be for the full period of sentence; and during such time the person so sentenced may be placed on probation under the supervision of a probation officer in counties where such officer is provided by law, and in other counties under the supervision of the state board of parole or of some discreet person who will accept such supervision and serve without pay, making report to the court as required. Provided, however, that nothing herein contained shall prevent juvenile courts, in appropriate cases, from placing persons on probation to the state board of parole for supervision. The court shall in each case set forth the reason for the order of probation and may make such terms and conditions of probation as are deemed suitable, and may require a recognizance or other surety, conditioned upon the performance of such terms and conditions and may enforce the same. Prior to the expiration of the sentence, but not until after one year from the time the person has been placed on probation, the court, or the board of parole where the case has been referred to such board, shall have the power, when in its judgment the facts in the case and the behavior of the probationer so warrants, to indefinitely suspend such sentence, provided, however, the period of suspension of sentence shall not exceed the maximum sentence imposed except where such maximum penalty is less than one year, when such stay may be for a period not exceeding one year, unless otherwise provided by law. The court may in its discretion suspend sentence indefinitely. The court may make such order in or out of term, and at any place within the judicial district in which the case was tried. When a person is placed on probation under the supervision of the state board of parole, the clerk of the district court shall immediately upon the entry of the order of probation, certify a copy of the record of the case upon the blanks supplied by the state board of parole, set forth the reasons, terms and conditions of probation, and deliver the same to the state board of parole, whereupon, the custody of the person so placed on probation shall vest in the said board with the same power as is exercised over persons on parole from the state prison or state reformatory. The chairman of the board of parole shall act as director of probation and parole, and, for the purpose of carrying out the provisions of this act, the state board of parole is authorized and empowered to provide such probation agents, not exceeding five, to fix their compensation and to prescribe their duties. ('09, c. 391, §2; G. S. '13, §8497; Mar. 31, 1933, c. 135; Apr. 13, 1935, c. 167.)

Order of suspension of sentence in original instance should be for a definite period of time, and court cannot grant an indefinite suspension until expiration of that time. Op. Atty. Gen. (341k-9), May 16, 1935.

9938. Revocation.

Vacating a stay of execution of sentence under which accused had been on probation, is matter of discretion of trial judge. State v. Wall, 189M265, 249NW37.

Stating reasons for revocation of orders suspending sentence is not jurisdictional. State v. Municipal Court, 197M141, 266NW433. See Dun. Dig. 2487.

Suspension of sentence is a matter of grace, and court may revoke such suspension at any time during stay, without notice to defendant. Id.

After sentence has been indefinitely suspended court cannot revoke such suspension. Op. Atty. Gen. (341k-9), May 16, 1935.

9940. Restoration to civil rights.

Person convicted in federal court cannot vote or hold office without Presidential pardon. Op. Atty. Gen., Apr. 3, 1930; Apr. 21, 1930.

Governor may not restore a person convicted of a felony in federal court, who can only be restored to his civil rights in the state by a presidential pardon. Op. Atty. Gen. (68h), Feb. 1, 1937.

Conviction of a felony does not render certified public accountant ineligible to hold certificate. Op. Atty. Gen. (882e), Oct. 6, 1937.

9942. Certificate by governor.

Conviction of crime vacates office of notary public and restoration of civil rights does not reinstate officer and he cannot take acknowledgment without issue of a new commission. Op. Atty. Gen. (320j), Dec. 13, 1934.

9944. Restoration to civil rights, etc.

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

9946. Incriminating testimony not to be used.

Introduction in evidence of defendant's petition to suppress evidence as having been obtained by an illegal search and seizure, held not violative of this section. Kaiser v. U. S., (CCA8), 60F(2d)410. Cert. den., 287US 654, 53SCR118. See Dun. Dig. 10337.

9947. Commitment of child to state training school upon conviction of crime.

County must stand the expense of transporting a minor committed to the State Training School at Red Wing. Op. Atty. Gen., Sept. 1, 1931.

Where juvenile was bound over to district court by juvenile court of same county and was committed to state training school at Red Wing by district court, expenses of transportation must be paid by county. Op. Atty. Gen. (345d), Apr. 16, 1937.

9948. Convict as witness.

State v. McTague, 190M449, 252NW446; note under §9815, note 2.

Misconduct of prosecuting attorney in cross-examining defendant with respect to other charges of crime, held to require a new trial. 176M442, 223NW769.

Insinuations that defendant had been involved in like affairs before, held prejudicial notwithstanding this section. 179M436, 229NW564.

Evidence of conviction of a gross misdemeanor, such as violation of §5714, is admissible for purpose of affecting weight of testimony of witness. Brase v. W., 192M 304, 256NW176. See Dun. Dig. 10349.

A defendant may be cross-examined upon collateral matters to affect his credibility and to discredit him, and to some extent state may inquire into his past life, and extent of cross-examination is largely within discretion of trial court. State v. Tsiolis, 202M117, 277NW409. See Dun. Dig. 10309.

CHAPTER 93A

Prevention and Control of Crime—Bureau of Criminal Apprehension

9950–6. Superintendent—Appointment, terms of office, removal, vacancy in office and salary—Rules and regulations made by—Bureau to assist sheriffs.—Said bureau shall be under the supervision and control of a superintendent, who shall be appointed by the governor by and with the consent of the Senate. The term of office of the superintendent first appointed shall continue until February 1, 1929, and thereafter the term shall be two years. The incumbent shall serve until a successor is appointed and qualified. The governor may remove the superintendent at any time at his pleasure. Any vacancy shall be filled for the unexpired portion of the term. The superintendent shall receive a salary of $5,000.00 per year, payable semi-monthly, and shall devote his entire time to the duties of his office. The superintendent from time to time shall make such rules and regulations and adopt such measures as he deems necessary, within the provisions and limitations of this act, to secure the efficient operation of the bureau. The bureau shall co-operate with the respective sheriffs, constables, marshals, police and other peace officers of the state in the detection of crime and the apprehension of criminals throughout the state and shall have the power to conduct such investigations as the superintendent may deem necessary to secure evidence which may be essential to the apprehension and conviction of alleged violators of the criminal laws of the state. The various members of the bureau shall have and may exercise throughout the state the same powers of arrest possessed by a sheriff, but they shall not be employed to render police service in connection with strikes and other industrial disputes. ('27, c. 224, §2; Apr. 17, 1935, c. 197, §1.)

9950–7. Employees of bureau—Identification expert—Expenses of superintendent and employees—Division of criminal statistics.—The superintendent is hereby authorized to appoint, in the manner provided, and to remove as provided by the state civil service act and to prescribe the duties of such skilled and unskilled employees, including an identification expert as may be necessary to carry out the work of said bureau, but not exceeding 28 in number; provided, however, that the appointment and removal of such skilled and unskilled employees shall be in the manner provided by the state civil service act. The superintendent and all officers and employees of said bureau shall, in addition to their compensation, receive their actual and necessary expenses incurred in the discharge of their duties, provided that the total expense of said bureau during any year shall not exceed the appropriation therefor.

There is hereby established within the bureau a division of criminal statistics, and the superintendent within the limits of membership herein prescribed shall appoint a qualified statistician and one assistant to be in charge thereof. It shall be the duty of this division to collect, and preserve as a record of the bureau, information concerning the number and nature of offenses known to have been committed in the state of the legal steps taken in connection therewith from the inception of the complaint to the final discharge of the defendant and such other information as may be useful in the study of crime and the administration of justice. The information so collected and preserved shall include such data as may be requested by the United States Department of Justice at Washington under its national system of crime reporting.

It shall be the duty of all sheriffs, chiefs of police, city marshals, constables, prison wardens, superintendents of insane hospitals, reformatories and correctional schools, probation and parole officers, school attendance officers, coroners, county attorneys, court clerks, the liquor control commissioner, the commissioner of highways, the state fire marshal to furnish to said division, statistics and information regarding the number of crimes reported and discovered, arrests made, complaints, informations and indictments, filed and the disposition made of same, pleas, convictions, acquittals, probations granted or denied, receipts, transfers and discharges to and from prisons, reformatories, correctional schools and other institutions, paroles granted and revoked, commutation of sentences and pardons granted and rescinded and all other data useful in determining the cause and amount of crime in this state and to form a basis for the study of crime, police methods, court procedure and penal problems. Such statistics and information shall be furnished upon the request of the division and upon such forms as may be prescribed and furnished by it. The division shall have the power to inspect and prescribe the form and substance of the records kept by those officials from which the information is so furnished. ('27, c. 224, §3; Apr. 17, 1935, c. 197, §2; Apr. 22, 1939, c. 441, §41.)

The 28 employees authorized by §9950-7 includes those necessary to operate the radio broadcasting station under Laws 1935, c. 195, §1. Op. Atty. Gen. (985h), June 7, 1935.

Board of regents may not fix age or educational requirements of applicant desiring to take examination. Op. Atty. Gen. (618a-2), July 27, 1935.

Veteran's preference law applies to employees under this act. Id.

Though home rule charter provides that mayor shall be chief of police, city marshal may make reports to bureau of criminal apprehension. Op. Atty. Gen. (985f), Feb. 5, 1936.

One passing examination and being classified as an identification expert was qualified for appointment as investigator. Op. Atty. Gen. (985h), Aug. 20, 1938.

No new appointment can be made, except from a list of applicants who have passed examination prepared and supervised by board of regents. Op. Atty. Gen. (985), Feb. 1, 1939.

Appointment and removal of employee must be made as provided by civil service act where there is a list of eligibles available, and until there is such a list appointment and removal is governed by Laws 1939, c. 441, §§10, 11. Op. Atty. Gen. (644), May 5, 1939.