

130278

# 1941 Supplement

To

# Mason's Minnesota Statutes

1927

1939 to 1941

(Supplementing Mason's 1940 Supplement)

Containing the text of the acts of the 1941 Session 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 Law Review Articles and digest of all common law decisions.

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## Part V. Construction of Statutes and Express Repeals

### CHAPTER 107

#### Statutes

##### THE REVISED LAWS AND THEIR EFFECT

###### 10918 and 10919. [Repealed.]

Repealed. Laws 1941, c. 492.

###### 10922. Continuation of former laws. [Repealed.]

Repealed. Laws 1941, c. 492.

###### 10926. Published laws as evidence. [Repealed.]

Repealed. Laws 1941, c. 492.

##### CONSTRUCTION

###### 10928 and 10929. [Repealed.]

Repealed. Laws 1941, c. 492.

###### 10930. Effect of repeal. [Repealed.]

Repealed. Laws 1941, c. 492.

The provision of a bond of a contractor for a public improvement, and the statute under which it was given, that suit on the bond must be brought within 60 days after accrual of cause of action, gave the surety on the bond a vested right in the limitation provided, and the repeal of the statute could not destroy such right and permit the claimant to bring the action within the time prescribed by the general limitation statute. *Nat'l Sur. Corp. v. W.*, (CCA8)111F(2d)622, rev'g 24FSupp640.

Repeal of remedy does not mean loss of right or of consent to suit by the state. *State v. Stassen*, 294NW 647.

Repeal of veterans' preference act by civil service act took away statutory remedy of mandamus for a wrongfully discharged state employee, including a pending action in mandamus which was not perfected by final judgment, even though trial had been had before repeal, and a cause of action for damages, as long as it remained inchoate and not merged in final judgment, was equally destroyed by repeal of statute which created it. *State v. Railroad and Warehouse Com'n.*, 296NW906. See Dun. Dig. 8923.

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A general saving clause against repeal cannot prevail over a subsequent expressed repeal. Id. See Dun. Dig. 8922.

###### 10931. Amendments validated. [Repealed.]

Repealed. Laws 1941, c. 492.

###### 10932. Rules of construction. [Repealed.]

Repealed. Laws 1941, c. 492.

###### 1/2. Rules of construction in general.

*Minnesota v. Probate Court*, 309US270, 60SCR523, aff'g 205Minn545, 287NW297.

*Trustees of Pillsbury Academy v. State*, 204Minn365, 283NW727. Judgment aff'd 60SCR92. *Reh. den.*, 60SCR135.

Ordinarily courts should not read into a statute something that is not there. *Kangas v. W.*, 291NW292. See Dun. Dig. 8958.

Where a power is conferred to be exercised for the benefit of the state or a private party the word "may" is to be construed to mean "must" and the statute is mandatory. *State v. Oliver Iron Min. Co.*, 207Minn618, 630, 637, 292NW407, 411. *Cert. den.* 61SCR439,440. See Dun. Dig. 8979.

Two acts passed, approved, and effective the same day, are to stand together and be harmonized. *Ausman v. H.*, 292NW421. See Dun. Dig. 8984.

Where a statute has received a known settled construction, upon re-enactment legislature must be presumed to have adopted prior construction. *Christgau v. W.*, 293NW619. See Dun. Dig. 8965.

Statutes should be construed to give effect to intention of legislature. *U. S. v. C.*, (DC-Minn), 31FSupp530. See Dun. Dig. 9840.

Administrative interpretations are entitled to high respect and should not be disturbed except for very cogent reasons; however, where a statutory body has assumed a power plainly not granted, no amount of administrative interpretation is binding on the courts, and departmental regulations may not extend statute or modify its provisions. Id.

Statements and opinions of legislators uttered in debate in Congress or in a state legislature are not appropriate sources of information from which to discover meaning of language of a statute passed by such body, but the court may advert to the view expressed by in-

dividual members in debate or by a committee in its report and gather therefrom the history of the times or of the evil which the legislature was intending to remedy. Id.

Intent of legislature is to be ascertained in language of statute itself, unless language is so obscure, indefinite or ambiguous that effect intended by legislature is left in doubt. Id.

Where words used in a statute are susceptible of different meanings, or are not entirely clear, help may be received from Congressional reports. Id.

Where a statute is free from ambiguity courts are barred from exploring realms of construction. *State v. Ristine*, (DC-Minn), 36FSupp3.

Popular and accepted meaning of the import of words used by the legislature must be followed by the courts. Id.

Where there is a widespread evil manifested by an almost infinite variety of cunning schemes by reason of which the public is victimized, and legislation is enacted specifically designed to remedy that particular evil, a broad construction should be given the statute. *State v. Hofacre*, 288NW13. See Dun. Dig. 8986.

An exception in a statute is to be construed in harmony with remainder of statute. *State v. Goodman*, 288NW157. See Dun. Dig. 8948.

An exception in a statute exempts from its operation something that would otherwise be within it. Id. See Dun. Dig. 8948.

Often a statute speaks as plainly by inference and by means of purposes which underlie it as in any other manner. Id. See Dun. Dig. 8949.

A statute granting a power or right comprehends all such incidental, collateral and subsidiary consequences as may be fairly and logically inferred from its terms. Id. See Dun. Dig. 8949.

Extraneous aids to construction are admissible only to solve doubt, not to create it. *Bielke v. A.*, 288NW584. See Dun. Dig. 8938.

Ordinarily statutory directions not relating to the essence of the thing to be done, compliance with which is a matter of convenience rather than substance, are not mandatory, but are directory only, as distinguished from the substantive provisions relating to the essence, which are mandatory. Id. See Dun. Dig. 8954.

The procedural portion of a remedial statute, particularly one directing adoption by an administrative board of rules for its operation, can not, in absence of expression of legislative intention to that effect, control substantive portions of same statute, prescribing rights and obligations thereby created. Id. See Dun. Dig. 1660, 8940.

A statute sometimes speaks as plainly by inference and by means of the purposes, which underlie it, as in any other manner. *Kavli v. E.*, 288NW723. See Dun. Dig. 8940.

Resort may be had to statute in *pari materia* because all statutes which relate to same subject matter were presumably enacted in accord with general legislative policy and together constitute an harmonious and uniform system of law. *State v. Weed*, 294NW370. See Dun. Dig. 8984.

Statutes are in *pari materia* when they relate to same matter or subject even though some are specific and some general and even though they have not been enacted simultaneously and do not refer to each other expressly. Id.

In construing a statute attention should be given to restrictive character of title. *Underhill v. S.*, 294NW643. See Dun. Dig. 8909(69).

In construing a legislative act, a section thereof is not to be considered apart from other sections, and act is to be read and construed as a whole. Id. See Dun. Dig. 8951(65).

Title of act may be resorted to in order to arrive at intention of legislature. Id. See Dun. Dig. 8964.

It is intention of legislature that is paramount, and this will be given effect if it can be done without violence to language employed. *Graybar Electric Co. v. S.*, 294NW654. See Dun. Dig. 8940.

A later statute differing from an earlier one impliedly amends earlier to extent of inconsistency even though earlier is not expressly referred to by later. *Dimke v. F.*, 295NW75. See Dun. Dig. 8927.

Where intent of statute is clear resort cannot be had to extraneous for purposes of interpretation. *State v. Wm. O'Neil Sons Co.*, 296NW7. See Dun. Dig. 8938.

Language of a statute lacking comprehensive generalities should not be construed to include unknown things which might spring into existence in future. *Poznanovic v. M.*, 296NW415. See Dun. Dig. 8947a.

Capricious distinctions are not to be imputed to legislature, and unjust and indefensible results of a statute are to be avoided by construction, if possible. *Pomeroy v. N.*, 296NW513. See Dun. Dig. 8943.

Where a statute is clear and free from uncertainty or ambiguity it is duty of court to give language its plain meaning, and history of act should not be resorted to for aid in its construction. *Rice v. C.*, 295NW529. See Dun. Dig. 8938.

Weight given by courts to administrative construction. 24MinnLawRev129.

Ambiguity of unambiguous statutes. 24MinnLawRev 509.

The ambiguity of unambiguous statutes. 24MinnLawRev 509.

#### 1. Judicial duty and policy.

*Minnesota v. Probate Court*, 309US270, 60SCR523, aff'g 205Minn545, 287NW297.

Statutory amendment should be by legislature and not by court, especially where statute is in derogation of common law. *Kangas v. W.*, 291NW292. See Dun. Dig. 8958.

Every law is presumed to be constitutional in first instance and will not be declared unconstitutional unless its invalidity appears clearly or unless it is shown beyond a reasonable doubt that it violates some constitutional provision, and power of courts to declare a law unconstitutional is to be exercised only when absolutely necessary in particular case and then with great caution. *Dimke v. F.*, 295NW76. See Dun. Dig. 8929, 8930, 8931.

#### 2. Who may question validity.

Constitutionality of moratorium law although challenged and argued by counsel, need not be determined where it is apparent from record that holder of sheriff's certificate does not wish to obtain possession of mortgaged property if some other reasonable means can be found to liquidate his claim. *Shumaker v. H.*, 288NW839. See Dun. Dig. 8930a.

A litigant is in no position to attack a statute as unconstitutional until some constitutional right of his is actually threatened by the law or its attempted enforcement. *McElhone v. G.*, 292NW414. See Dun. Dig. 8935.

Court only hears objections to constitutionality of laws from those who are themselves affected by its unconstitutionality in feature complained of. *Eldred v. D.*, 295NW 412. See Dun. Dig. 8935.

One may not, while seeking benefits of a statute attack its constitutionality. *Byard v. C.*, 296NW10. See Dun. Dig. 8935.

#### 3. Repeal.

The provision of a bond of a contractor for public improvement, and the statute under which it was given, that suit on the bond must be brought within 60 days after accrual of cause of action, gave the surety on the bond a vested right in the limitation provided, and the repeal of the statute could not destroy such right and permit the claimant to bring the action within the time prescribed by the general limitation statute. *Natl Sur. Corp. v. W.* (CCA8)111F(2d)622, rev'g 24FSupp640.

A later ordinance, although it contains no expressed intention to repeal or amend an earlier one, does so by implication insofar as it reduces compensation fixed for teachers by earlier ordinance. *Doyle v. C.*, 289NW784, 785. See Dun. Dig. 8927.

If a statute is inescapably inconsistent with an earlier one dealing with same subject, new repeals old, or amends it in proportion as it introduces change, even though there is no repealing clause and no expressed intention to amend. *Id.* See Dun. Dig. 8927.

A later law abrogates a prior contrary law, insofar as there is conflict between them, later law must prevail. *Absetz v. M.*, 290NW298. See Dun. Dig. 8927.

Where a statute embraces only part of a subject covered comprehensively by a prior law, the two should be construed together unless a different legislative intent appears, the later being an exception or qualification of the prior only so far as they are repugnant. *State v. Weed*, 294NW370. See Dun. Dig. 8927.

Repeal by implication is not favored by the courts, nor is the ousting of jurisdiction of a court. *Id.*

Repeal or amendment of a statute by implication is not favored. *Appelquist v. O.*, 296NW13. See Dun. Dig. 8927.

A statute which expressly supersedes an earlier one is a repeal thereof. *State v. Railroad and Warehouse Com'n.*, 296NW906. See Dun. Dig. 8926.

#### 10933. Particular words and phrases. [Repealed.]

Repealed. Laws 1941, c. 492.

(3).

A county commissioner auditing and allowing a fraudulent claim is guilty of a felony and an infamous crime, and on conviction his office is automatically vacated. *Op. Atty. Gen.* (126G), Oct. 11, 1940.

(4).

A "fallo" is to be determined by measurements under §10933 and not in accordance with §10933(4). *Op. Atty. Gen.*, (277E), Dec. 21, 1939.

(6).

A meeting of a private corporation such as a farmers' cooperative elevator association is not public and "no public business" is transacted thereat, and a valid meeting of stockholders or directors may be held on a legal holiday. *Op. Atty. Gen.* (276-6), Jan. 7, 1941.

(8).

Where property is given in trust to pay income to a beneficiary for life with remainder to "lawful issue" of life beneficiary, gift in remainder is to a class, which, absent context or circumstances to show a contrary in-

tervention, includes adopted children. *Holden's Trust*, 291 NW104. See Dun. Dig. 2722a.

(12).

Computation of population of cities or villages for purpose of determining number of liquor licenses is governed by last official state or federal census, and no effect may be given a private census. *Op. Atty. Gen.*, (218g-1), Feb. 6, 1940.

Population of a village is to be determined from records of last preceding census, state or federal, notwithstanding that a new business has been set up and there is actually a large increase in population. *Op. Atty. Gen.* (487c-3), Mar. 5, 1941.

(21).

Commissioner of administration in purchasing fidelity bond may take into consideration reasonably probable dividends that will be declared. *Op. Atty. Gen.*, (980a-4), Jan. 31, 1940.

Where last day for filing is fifteen days preceding election, day on which act may be performed must be excluded and day on which election is to take place included. *Op. Atty. Gen.*, (911a-1), Feb. 13, 1940.

#### 10933-1. Standard time. [Repealed.]

Repealed. Laws 1941, c. 492.

10933-2. Meanings of certain words.—When used in this chapter the following words and phrases have the meaning ascribed to them in this section:

(1) "Final enactment" or "enacted finally" means the time when the procedure required by the constitution for the enactment of a bill into a law has been complied with;

(2) "Legislature" means the senate and the house of representatives of the state of Minnesota. (Act Apr. 28, 1941, c. 492, §1.)

10933-3. When various acts take effect.—Each act, except one making appropriations, enacted finally at any session of the legislature takes effect at the beginning of the day next following its final enactment, unless a different date is specified in the act.

An appropriation act or an act having appropriation items enacted finally at any session of the legislature takes effect at the beginning of the first day of July next following its final enactment, unless a different date is specified in the act.

Each act takes effect at 12:01 a. m. on the day it becomes effective, unless a different time is specified in the act. (Act Apr. 28, 1941, c. 492, §2.)

10933-4. Revised Laws 1905—Effect.—Revised Laws 1905 shall not be construed as abrogating any act passed at the 1905 session, all of which, so far as they differ from the Revised Laws, shall be construed as amendatory thereof or supplementary thereto. (Act Apr. 28, 1941, c. 492, §3.)

10933-5. Same—Repealed laws not revived.—The repeal by Revised Laws 1905 of any act, or any part of any act, whether the same be revised or re-enacted therein or not, shall not revive any law theretofore or thereby repealed or any office abolished. (Act Apr. 28, 1941, c. 492, §4.)

10933-6. Same—As continuations of law.—The provisions of Revised Laws 1905, so far as they are the same as those existing on March 1, 1906, shall be construed as continuations thereof, and not as new enactments; and references in statutes not repealed to provisions of law which are revised and re-enacted therein shall be construed as applying to such provisions as so incorporated in the Revised Laws. (Act Apr. 28, 1941, c. 492, §5.)

10933-7. Published laws as prima facie evidence.—Subdivision 1. Revised Laws 1905, as published, are competent evidence of the laws therein contained, in all the courts of this state, without further proof or authentication.

Subdivision 2. General Statutes 1913 are prima facie evidence of the statutes therein contained, in all the courts of this state, without further proof or authentication.

Subdivision 3. General Statutes 1923 are prima facie evidence of the statutes therein contained, in all the courts of this state, without further proof or authentication.

Subdivision 4. Mason's Minnesota Statutes of 1927, together with the Supplements of 1931, 1934, 1936, 1938, and 1940, are prima facie evidence of the statutes therein contained, in all the courts of this state, without further proof or authentication.

Subdivision 5. The Minnesota Statutes 1941, when published shall be prima facie evidence of the statutes therein contained, in all the courts of this state, without further proof or authentication; but shall not preclude reference to, nor control, in case of any discrepancy, any original act of the legislature. (Act Apr. 28, 1941, c. 492, §6.)

**10933-8. Time.**—Every mention of, or reference to, any hour or time in any law is to be construed with reference to and in accordance with the mean solar time of the ninetieth meridian of longitude west of Greenwich, commonly known as central standard time. The standard of time in this state is such solar time, and no department of the state government and no county, city, town, village, or borough shall employ any other time or adopt any ordinance or order providing for the use of any other time than the standard time. When the standard time shall be advanced for any portion of a year, by any act of congress, the time so fixed is the standard time of this state for such portion of the year. (Act Apr. 28, 1941, c. 492, §7.)

**10933-9. Construction of statute.**—In construing the statutes of this state, the following canons of interpretation are to govern, unless their observance would involve a construction inconsistent with the manifest intent of the legislature, or repugnant to the context of the statute:

(1) Words and phrases are construed according to rules of grammar and according to their common and approved usage; but technical words and phrases and such others as have acquired a special meaning, or are defined in this chapter, are construed according to such special meaning or their definition;

(2) The singular includes the plural; and the plural, the singular; words in the masculine gender include the feminine and neuter; words used in the past or present tense include the future;

(3) General words are construed to be restricted in their meaning by preceding particular words;

(4) Words in a law conferring a joint authority upon three or more public officers or other persons are construed to confer authority upon a majority of such officers or persons; and

(5) A majority of the qualified members of any board or commission constitutes a quorum. (Act Apr. 28, 1941, c. 492, §8.)

**10933-10. Roman and Arabic numerals.**—Roman and Arabic numerals are parts of the English language. (Act Apr. 28, 1941, c. 492, §9.)

**10933-11. Construction of law requiring a bond.**—A law requiring a bond or undertaking with sureties to be given by any person is construed to permit in lieu thereof a bond of indemnity or surety bond for the amount of such bond or undertaking, given by an indemnity or surety company authorized to do business in this state, and approved by the proper authority. (Act Apr. 28, 1941, c. 492, §10.)

**10933-12. Published notice.**—Unless otherwise specifically provided, the words "published notice," when used in reference to the giving of notice in any proceeding, or the service of any summons, order, or process in judicial proceedings, mean the publication in full of the notice or other paper referred to, in the regular issue of a qualified newspaper, once each week for the number of weeks specified. When the publication day of any newspaper falls upon Thanksgiving Day, or upon any legal holiday, the publication of notice in any proceeding or the publication of any summons, order, or process in judicial proceedings may be made either the day before or the day after Thanksgiving Day, or such legal holiday. (Act Apr. 24, 1941, c. 492, §11.)

**10933-13. Posted notices—Loose leaf binders—Open face envelopes.**—

Subdivision 1. The term "posted notice," when used in reference to the giving of notice in any proceeding or the service of any summons, order, or process in judicial proceedings, means the posting, at the beginning of the prescribed period of notice, of a copy of the notice or document referred to, in a manner likely to attract attention, in each of three of the most public places in the town, city, district, or county to which the subject matter of the notice relates, or in which the thing of which notice is given is to occur or to be performed.

Subdivision 2. Posting, posting in a conspicuous place or conspicuously posting shall, when the number of notices of like nature in the same proceeding is so large that it would be impractical to affix them separately to a wall, post, or bulletin board, include placing the notices in a loose leaf binder or binders with a statement of the contents on the outside thereof, which shall be kept on a table or counter in the designated place of posting, provided that such notices shall be accessible and subject to inspection by the public at all times.

Subdivision 3. Posting, posting in a conspicuous place, or conspicuously posting shall, when the number of licenses issued to the same person, persons, co-partnership or corporation is so large that it would be impractical to affix them separately to a wall, post, or fixture, include placing such licenses in a series of open face envelopes with a statement of the contents on the outside thereof, which shall be prominently displayed, provided that such licenses shall be accessible and subject to inspection at all times. (Act Apr. 28, 1941, c. 492, §12.)

**10933-14. Successive weeks.**—When the term "successive weeks" is used in any law providing for the publishing of notices, the word "weeks" shall be construed as calendar weeks. The publication upon any day of such weeks shall be sufficient publication for that week, but at least five days shall elapse between each publication. At least the number of weeks specified in "successive weeks" shall elapse between the first publication and the day for the happening of the event for which the publication is made. (Act Apr. 28, 1941, c. 492, §13.)

**10933-15. Months, how computed.**—When, in any law, the lapse of a number of months before or after a certain day is required, such number of months shall be computed by counting the months from such day, excluding the calendar month in which such day occurs, and including the day of the month in the last months so counted having the same numerical order as the day of the month from which the computation is made, unless there be not so many days in the last month so counted, in which case the period computed shall expire with the last day of the month so counted. (Act Apr. 28, 1941, c. 492, §14.)

**10933-16. Performance of any act, duty, etc.—Computation of time.**—Where the performance or doing of any act, duty, matter, payment or thing is ordered or directed, and the period of time or duration for the performance or doing thereof is prescribed and fixed by law, such time, except as otherwise provided in Sections 13 and 14, shall be computed so as to exclude the first and include the last day of any such prescribed or fixed period of duration of time. When the last day of such period falls on Sunday, or on any day made a legal holiday, by the laws of this state or of the United States, such day shall be omitted from the computation. (Act Apr. 28, 1941, c. 492, §15.)

**10933-17. Interpretation of the law.—Elements considered.**—The object of all interpretation and construction of laws is to ascertain and effectuate the intention of the legislature. Every law shall be construed, if possible, to give effect to all its provisions.

When the words of a law in their application to an existing situation are clear and free from all ambiguity, the letter of the law shall not be disregarded under the pretext of pursuing the spirit.

When the words of a law are not explicit, the intention of the legislature may be ascertained by considering, among other matters:

- (1) The occasion and necessity for the law;
- (2) The circumstances under which it was enacted;
- (3) The mischief to be remedied;
- (4) The object to be attained;
- (5) The former law, if any, including other laws upon the same or similar subjects;
- (6) The consequences of a particular interpretation;
- (7) The contemporaneous legislative history; and
- (8) Legislative and administrative interpretations of the statute. (Act Apr. 28, 1941, c. 492, §16.)

**10933-18. Ascertaining legislative intention.**—In ascertaining the intention of the legislature the courts may be guided by the following presumptions:

- (1) The legislature does not intend a result that is absurd, impossible of execution, or unreasonable;
- (2) The legislature intends the entire statute to be effective and certain;
- (3) The legislature does not intend to violate the constitution of the United States or of this state;
- (4) When a court of last resort has construed the language of a law, the legislature in subsequent laws on the same subject matter intends the same construction to be placed upon such language; and
- (5) The legislature intends to favor the public interest as against any private interest. (Act Apr. 28, 1941, c. 492, §17.)

**10933-19. Grammatical errors.**—Grammatical errors shall not vitiate a law. A transposition of words and clauses may be resorted to when a sentence is without meaning as it stands. In no case shall the punctuation of a law control the intention of the legislature in the enactment thereof. Words and phrases which may be necessary to the proper interpretation of a law and which do not conflict with its obvious purpose and intent nor in any way affect its scope and operation may be added in the construction thereof. (Act Apr. 26, 1941, c. 492, §18.)

**10933-20. Provisos—Exceptions.**—Provisos shall be construed to limit rather than to extend the operation of the clauses to which they refer. Exceptions expressed in a law shall be construed to exclude all others. (Act Apr. 28, 1941, c. 492, §19.)

**10933-21. Provisions of law are severable.**—Unless there is a provision in the law that the provisions shall not be severable, the provisions of all laws shall be severable. If any provision of a law is found to be unconstitutional and void, the remaining provisions of the law shall remain valid, unless the court finds the valid provisions of the law are so essentially and inseparably connected with, and so dependent upon, the void provisions that the court cannot presume the legislature would have enacted the remaining valid provisions without the void one; or unless the court finds the remaining valid provisions, standing alone, are incomplete and are incapable of being executed in accordance with the legislative intent. (Act Apr. 28, 1941, c. 492, §20.)

**10933-22. Laws not retroactive.**—No law shall be construed to be retroactive unless clearly and manifestly so intended by the legislature. (Act Apr. 28, 1941, c. 492, §21.)

**10933-23. Uniform laws.**—Laws uniform with those of other states shall be interpreted and construed to effect their general purpose to make uniform the laws of those states which enact them. (Act Apr. 28, 1941, c. 492, §22.)

**10933-24. Penalties at forfeitures.**—The provision in any law for a penalty or forfeiture for its violation shall not be construed to deprive an injured per-

son of the right to recover from the offender damages sustained by reason of the violation of such law. (Act Apr. 24, 1941, c. 492, §23.)

**10933-25. Same—Shall be for each violation.**—When a penalty or forfeiture is provided for the violation of a law, such penalty or forfeiture shall be construed to be for each such violation. (Act Apr. 28, 1941, c. 492, §24.)

**10933-26. Intent to defraud.**—When an intent to defraud is required in any law in order to constitute an offense, the law shall be construed to require only an intent to defraud any person or body politic. (Act Apr. 28, 1941, c. 492, §25.)

**10933-27. Conflict in provisions of laws.**—  
Subdivision 1. When a general provision in a law is in conflict with a special provision in the same or another law, the two shall be construed, if possible, so that effect may be given to both. If the conflict between the two provisions be irreconcilable, the special provision shall prevail and shall be construed as an exception to the general provision, unless the general provision shall be enacted at a later session and it shall be the manifest intention of the legislature that such general provision shall prevail.

Subdivision 2. When, in the same law, several clauses are irreconcilable, the clause in order of date or position shall prevail.

Subdivision 3. When the provisions of two or more laws passed during the same session of the legislature are irreconcilable, the law latest in date of final enactment, irrespective of its effective date, shall prevail from the time it becomes effective, except as otherwise provided in Section 30.

Subdivision 4. When the provisions of two or more laws passed at different sessions of the legislature are irreconcilable, the law latest in date of final enactment shall prevail. (Act Apr. 28, 1941, c. 492, §26.)

**10933-28. State not bound unless named in law.**—The state is not bound by the passage of a law unless named therein, or unless the words of the act are so plain, clear, and unmistakable as to leave no doubt as to the intention of the legislature. (Act Apr. 28, 1941, c. 492, §27.)

**10933-29. Revision or code—Existing laws not repealed.**—Except as provided in Section 39, laws in force at the time of the adoption of any revision or code are not repealed by the revision or code unless expressly repealed therein. (Act Apr. 28, 1941, c. 492, §28.)

**10933-30. Bills of repeal—Reference to published statutes.**—Bills introduced at any legislative session purporting to amend or repeal any part of the laws of this state by reference in the title and body of such bills to any of the recognized published statutes of Minnesota shall be taken and construed to mean and shall have the same force and validity as if the bills referred to the original enactment. (Act Apr. 28, 1941, c. 492, §29.)

**10933-31. Prevalence of amendment over repeal by revision or code.**—When any existing law incorporated into and repealed by a code or revision is also amended by other legislation enacted at the same session of the legislature, such separate amendment shall be construed to be in force, notwithstanding the repeal by the code of the act it amends, and such amendment shall be construed to prevail over the corresponding provisions of the code. (Act Apr. 28, 1941, c. 492, §30.)

**10933-32. Amendment, incorporation—Time of effect.**—When a section or part of a law is amended, the amendment shall be construed as merging into the original law, becoming a part thereof, and replacing the part amended, and the remainder of the original enactment and the amendment shall be read together and viewed as one act passed at one time; but the portions of the law which were not altered by the

amendment shall be construed as effective from the time of their first enactment, and the new provisions shall be construed as effective only from the date when the amendment became effective. When an act has been amended "so as to read as follows," or otherwise, a later reference to that act either by its original title or as it exists in any compilation of the laws of this state includes the act as amended. (Act Apr. 28, 1941, c. 492, §31.)

**10933-33. Subsequent amendments.**—When a law has been more than once amended, the latest amendment shall be read into the original law as previously amended and not into such law as originally enacted. (Act Apr. 28, 1941, c. 492, §32.)

**10933-34. Effect where later amendment overlooks a previous one.**—When two or more amendments to the same provision of law are enacted at the same or different sessions, one amendment overlooking and making no reference to the other or others, the amendments shall be construed together, if possible, and effect be given to each. If the amendments be irreconcilable, the latest in date of final enactment shall prevail. (Act Apr. 28, 1941, c. 492, §33.)

**10933-35. Repeal of amendatory law.**—The repeal of an amendatory law does not revive the corresponding provision or section of the original law or of any prior amendment. Except as otherwise provided in Section 26, subdivision 3, the repeal of the original law, or section or provision of the original law, repeals all subsequent amendments to the original law, or to the original section or provision, as the case may be. (Act Apr. 28, 1941, c. 492, §34.)

**10933-36. Repeal not retroactive.**—The repeal of any law shall not affect any right accrued, any duty imposed, any penalty incurred, or any proceeding commenced, under or by virtue of the law repealed. Any civil suit, action, or proceeding pending to enforce any right under the authority of the law repealed shall and may be proceeded with and concluded under the laws in existence when the suit, action, or proceeding was instituted, notwithstanding the repeal of such laws; or the same may be proceeded with and concluded under the provisions of the new law, if any, enacted. (Act Apr. 28, 1941, c. 492, §35.)

**10933-37. Former law not revived by repeal of repeal law.**—When a law is repealed which repealed a former law, the former law shall not thereby be revived, unless it is so specifically provided. (Act Apr. 28, 1941, c. 492, §36.)

**10933-38. Repeal and reenactment in same law.**—When a law is repealed and its provisions are at the same time re-enacted in the same or substantially the same terms by the repealing law, the earlier law shall be construed as continued in active operation. All rights and liabilities incurred under such earlier law are preserved and may be enforced. (Act Apr. 28, 1941, c. 492, §37.)

**10933-39. Re-enactment of earlier law—Modification of intermediate law.**—A law which re-enacts the provision of an earlier law shall not be construed to repeal an intermediate law which modified such earlier law. Such intermediate law shall be construed to remain in force and to modify the re-enactment in the same manner as it modified the earlier law. (Act Apr. 28, 1941, c. 492, §38.)

**10933-40. Law purporting to be revision of all laws on a particular subject.**—When a law purports to be a revision of all laws upon a particular subject, or sets up a general or exclusive system covering the entire subject matter of a former law and is intended as a substitute for such former law, such law shall be construed to repeal all former laws upon the same subject. When a general law purports to establish a uniform and mandatory system covering a class of

subjects, such law shall be construed to repeal pre-existing local or special laws on the same class of subjects. In all other cases, a later law shall not be construed to repeal an earlier law unless the two laws are irreconcilable. (Act Apr. 28, 1941, c. 492, §39.)

**10933-41. No repeal on account of failure of reason for passage.**—A law shall not be deemed repealed because the reason for its passage no longer exists. (Act Apr. 28, 1941, c. 492, §40.)

**10933-42. No repeal on account of failure of use.**—A law shall not be deemed repealed by the failure to use such law. (Act Apr. 28, 1941, c. 492, §41.)

**10933-43. Repeal of law incorporated into code.**—When a law repeals any provision of a law incorporated into a code adopted at the same session of the legislature, the law repealing the provisions so incorporated into the code shall be construed to effect a repeal of the corresponding provision of the code. (Act Apr. 28, 1941, c. 492, §42.)

**10933-44. Repeal of statute of limitation.**—When a limitation or period of time, prescribed in any law for acquiring a right or barring a remedy, or for any other purpose, has begun to run before a law repealing such law takes effect, and the same or any other limitation is prescribed by any other law passed at the same session of the legislature, the time which has already run shall be deemed a part of the time prescribed as such limitation in such law passed at the same session of the legislature. (Act Apr. 28, 1941, c. 492, §43.)

**10933-45. Words and phrases.**—The following words and phrases used in the Minnesota Statutes, 1941, or any subsequent Minnesota statutes or legislative acts, shall have the meanings herein given, unless another intention clearly appears:

(1) The word "clerk," when used in reference to court procedure, shall mean the clerk of the court in which the action or proceeding is pending, and the words "clerk's office" shall mean his office;

(2) When a county, town, city, borough or village is mentioned, without any particular description, it imports the particular county, town, city, borough or village appropriate to the matter;

(3) The word "folio" shall mean 100 words; counting as a word each number necessarily used; if there be fewer than 100 words in all, the paper shall be computed as one folio; likewise any excess over the last full folio;

(4) The word "holiday" shall include New Year's Day, January 1; Lincoln's Birthday, February 12; Washington's Birthday, February 22; Memorial Day, May 30; Independence Day, July 4; Labor Day, the first Monday in September; Election Day, the first Tuesday after the first Monday in November of the even-numbered years; Christmas Day, December 25; the Friday next preceding Easter Sunday, commonly known as Good Friday; Thanksgiving Day; and Armistice Day, November 11; no public business shall be transacted on those days, except in cases of necessity, nor shall any civil process be served thereon;

(5) The word "oath" shall include "affirmation" in all cases where by law an affirmation may be substituted for an oath; and in like cases the word "sworn" shall include "affirm," and "sworn," "affirmed";

(6) The word "person" may extend and be applied to bodies politic and corporate, and to partnerships and other unincorporated associations;

(7) The word "population" and the word "inhabitants," when used in reference to population, shall mean that shown by the last preceding census, state or United States, unless otherwise expressly provided;

(8) When an instrument in writing is required or permitted to be filed for record with, or recorded by, any officer, the same imports that it must be recorded by such officer in a suitable book kept for that purpose, unless otherwise expressly directed;

(9) When the seal of a court, public office or corporation is required by law to be affixed to any paper, the word "seal" shall include an impression thereof upon the paper alone, as well as an impression on a wafer, wax or other substance thereto attached;

(10) The word "state," when applied to a part of the United States, shall extend to and include the District of Columbia and the several territories; and the words "United States" shall embrace the district and territories;

(11) The word "sheriff" may be extended to any person officially performing the duties of a sheriff, either generally or in special cases;

(12) The words "month" and "year" shall mean a calendar month or year, unless otherwise expressed; and the word "year" shall be equivalent to the expression "year of our Lord";

(13) The words "written" and "in writing" may include any mode of representing words and letters, except the signature, when required by law, must be in the handwriting of the person, or, if he be unable to write, his mark or his name written by some person at his request and in his presence. (Act Apr. 28, 1941, c. 492, §44.)

**10933-46. Same.**—The following words and phrases, when used in any law hereafter enacted, unless the context clearly indicates otherwise, shall have the meanings ascribed to them in this section:

- (1) "Abode" means domicile;
- (2) "Action," any proceeding in any court of this state;
- (3) "Adult," an individual 21 years of age or over;
- (4) "As now provided by law," a reference to the laws in force at the time the law containing the phrase was finally enacted;
- (5) "As provided by law," a reference to the laws in force at the particular time the law containing the phrase is applied;
- (6) "Attorney at law," an individual admitted to practice law by a court of record of this state;
- (7) "Attorney of record," an attorney at law who is entered on the docket or record of a court as appearing for or representing a party in a legal proceeding;
- (8) "Child" or "children" includes children by birth or adoption;
- (9) "Day" comprises the time from midnight to the next midnight;
- (10) "Fiscal year" the year by or for which accounts are reckoned;
- (11) "Hereafter," a reference to the time after the time when the law containing such work takes effect;
- (12) "Heretofore," a reference to the time previous to the time when the law containing such word takes effect;
- (13) "Judicial sale," a sale conducted by an officer or person authorized for the purpose by some competent tribunal;
- (14) "Minor," an individual under the age of 21 years;
- (15) "Money," lawful money of the United States;
- (16) "Night time," the time from sunset to sunrise;
- (17) "Non compos mentis," refers to an individual of unsound mind;
- (18) "Notary," a notary public;
- (19) "Now," in any provision of a law referring to other laws in force, or to persons in office, or to any facts or circumstances as existing, relates to the laws in force, or to the persons in office, or to the facts or circumstances existing, respectively, on the effective date of such provision;
- (20) "Verified," when used in reference to writings, means supported by oath or affirmation. (Act Apr. 28, 1941, c. 492, §45.)

**10933-47. Repealer.**—Mason's Minnesota Statutes of 1927, Sections 10918, 10919, 10922, 10926, 10928, 10929, 10930, 10931, 10932, 10933, 10933-1, 10937, 10945, 10950-2; Mason's Supplement 1940, Sections 10950-4, 10950-5, 10950-6, 10950-7, 10950-8, are hereby repealed. (Act Apr. 28, 1941, c. 492, §46.)

**10935-1. Qualifications for legal newspapers.**

Forfeiture sale of newspaper will not terminate its status as a legal newspaper, where list of subscribers is taken over and no publications are missed. Op. Atty. Gen. (314B-16), Jan. 9, 1940.

A newspaper in order to be designated as official newspaper of city of Robbinsdale which has adopted a home rule charter, need not satisfy requirements of this section. Op. Atty. Gen. (314B-7), Oct. 16, 1940.

A duly qualified newspaper in existence at time of passage of act did not lose its standing by thereafter moving its printing plant to a point outside of city, still retaining its office of publication in city. Op. Atty. Gen. (314B-7), Nov. 14, 1940.

Where "X" paper was admitted to second class entry Mar. 10, 1939, and later publisher began printing another paper in another village in same county and discontinued it in Feb. 1940, and thereafter name of "X" paper was changed to "Y" with a parenthetical explanation "continuation of 'Y' paper," and announcement was made that all subscribers to original "Y" paper would receive an additional year's subscription to the "X" (now called "Y") paper, subscribers to original "Y" paper could not be called paying subscribers to "X" (now called "Y") paper. Op. Atty. Gen. (314B-16), Jan. 28, 1941.

**10937. Published notice. [Repealed.]**

**Editorial note.**—Laws 1941, c. 492, §46, repeals Mason's Minn. Statutes, 1927, §10937. Prior to such repeal section 10937 was amended by Laws 1941, c. 103, to read as follows: Unless otherwise specifically provided, the words "published notice," when used in reference to the giving of notice in any proceeding or the service of any summons, order or process in judicial proceedings, shall mean the publication in full of the notice, or other paper referred to, in the regular issue of a qualified newspaper, once each week and at uniform intervals, for the number of weeks specified; provided that when the publication day of any newspaper falls upon Thanksgiving Day or upon any legal holiday, the publication of any summons, order or process in judicial proceedings may be made either the day before or the day after Thanksgiving Day, or the day before or the day after such legal holiday. Whenever the published notice contains a description of real estate which is located within the legal limits of any city or village, which city or village is situated in more than one county, such published notice may be published in any legal newspaper within such city or village.

**10939. Basis of measurement.**

A "folio" is to be determined by measurements under §10939 and not in accordance with §10933(4). Op. Atty. Gen. (277E), Dec. 21, 1939.

**10939-1. Fees for publication of legal notices.**

A city charter may provide lesser maximum rates than those prescribed by this section. Op. Atty. Gen. (277a-11), Mar. 14, 1941.

**10945. Prima facie evidence of statutes. [Repealed.]**

Repealed. Laws 1941, c. 492.

**10950-2. Same—Prima facie evidence. [Repealed.]**

Repealed. Laws 1941, c. 492.

**10950-4. Mason's Minnesota Statutes to be prima facie evidence. [Repealed.]**

Repealed. Laws 1941, c. 492.

There is no specific statute requiring a city to furnish Mason's Minnesota Statutes for use of municipal court, but that is the general practice. Op. Atty. Gen., (306), Dec. 14, 1939.

**10950-5 to 10950-8. [Repealed.]**

Repealed. Laws 1941, c. 492.

**10950-9. 1940 Supplement to Mason's Minnesota Statutes of 1927 to be prima facie evidence of the statutes therein contained.**—The 1940 Supplement to Mason's Minnesota Statutes of 1927 shall be prima facie evidence of the statutes therein contained. (Act Feb. 17, 1941, c. 11, §1.)

**10950-10. Same—Manner of citing.**—Said supplement may be cited or referred to as "Mason's Supplement 1940," but this shall not preclude the use of the full title thereof or any other proper form of citation. (Act Feb. 17, 1941, c. 11, §2.)