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.

Edited by
the
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attorneys or other attorneys representing the state, shall be payable out of any appropriations available for the purpose of this act. Any county attorney performing such service shall be entitled to the fees allowed therefor in addition to his regular compensation unless his salary is fixed on a full-time basis.

Subdivision 2. In case an action is necessary to perfect the title to any privately owned land involved in an exchange hereunder, and the owner of the land is unable to bear the expense thereof, the land exchange commission may authorize the attorney general to conduct such action and pay the expenses thereof as in case of actions to perfect the title to state lands. The expenses of the action, including attorney's fees, shall be deducted from the value of the land for the purpose of exchange, subject to payment by the owner for any difference in value as herein provided, or shall be repaid by the owner otherwise upon such terms as the commission may direct. All money received on account of such expenses shall be remitted to the state treasurer and credited to the fund from which the expenses were paid. (Act Apr. 23, 1941, c. 393, §7.)

4031-10¼ g. State lands subject to trusts—Determination of trust status.—The lands acquired by the state under Laws 1939, Chapter 343, shall be subject to like trusts as the state lands involved in the actions for damages mentioned therein. The commissioner of conservation shall determine to what trusts the several tracts of land so acquired shall be subject according to their location, character, and value, making due allowance for the relative proportions of the different trusts to which the damaged lands were subject, and shall make and file a certificate thereof in the office having custody of the records of such lands in the department of conservation. The determination of the commissioner so certified shall be deemed conclusive as to the trust status of the lands affected unless thereafter changed by act of the legislature. (Act Apr. 23, 1941, c. 393, §8.)

4031-10¼ h. Appropriation for expenses—Equalization of land value—Audit of claims.—There is hereby appropriated out of any money in the state treasury not otherwise appropriated the sum of $5,000 for the fiscal year ending June 30, 1942, and the sum of $5,000 for the fiscal year ending June 30, 1943, for expenses of the land exchange commission, the commissioner of conservation, and the attorney general in carrying out the provisions of this act; provided, that no payment for equalization of any land value shall be made out of this appropriation. Claims against this appropriation shall be audited and certified by the state auditor as secretary of the commission. (Act Apr. 23, 1941, c. 393, §9.)

4031-10¼ i. Repealer.—Mason's Supplement 1940, Sections 4031-10½m to 4031-10½t, inclusive, and all other acts and parts of acts inconsistent herewith are hereby repealed. (Act Apr. 23, 1941, c. 393, §10.)

4031-10¼ j. Severability clause.—The provisions of this act shall be severable, and if any provision or application hereof shall be declared invalid, it shall not affect any other provision or application which can be given effect without the one declared invalid. (Act Apr. 23, 1941, c. 393, §11.)

4031-10½ to 4031-10½t. [Repealed.]
Repealed. Laws 1941, c. 393.
Act Apr. 22, 1933, c. 418 consisting of §§4031-10½ to 4031-10½*l* was formerly repealed by Act Apr. 21, 1939, c. 382, §9.

4031-10¾a. Lands to be under control of conservation commission.
Act Apr. 2, 1941, c. 117, authorizes Commissioner of Conservation to withdraw and sell certain described school lands from Crow Wing State Forest.

4031-11. Co-operation with state highway; etc.
Limit of $500 on yearly expenditures for forest fire protection, pursuant to §4031-11, is not a limitation on expenditures for general fire protection. Op. Atty. Gen. (916B), Oct. 21, 1940.
Limitation of $500 applies only to funds expended for prevention of forest or prairie fires, and does not apply to expenditures by a town for general fire prevention. Id.

AFFORESTATION AND REFORESTATION

4031-74. Stock to be used on state lands.—Said commissioner may purchase or collect coniferous forest planting stock indigenous to Minnesota or grow the same; and may supply the same for use on lands owned by the state and dedicated to forestry or conservation purposes or to any political subdivision of the state for use upon lands set aside and dedicated to forestry or conservation purposes for a period of not less than 25 years; or upon lands dedicated to state trunk highway purposes, provided, however, plantings on such lands shall be confined to standard forest plantings; but no such plantings may be sold or given away for replanting upon any lands not qualified for planting under this act. (As amended Mar. 28, 1941, c. 84, §1.)

4031-75. State reforestation projects established.
Act Apr. 10, 1941, c. 185, provides for purchase of Civilian Conservation Corps site at Orr.
Act Apr. 16, 1941, c. 250, provides for purchase and rental of Civilian Conservation Corps site in Becker County.

CHAPTER 23

Department of Labor and Industries

INDUSTRIAL COMMISSION

4037. Office in St. Paul.
An action against members of state industrial commission to compel reinstatement of a dismissed employe is triable in Ramsey county where commission maintains its office. State v. District Court of St. Louis County, 287NW601. See Dun. Dig. 10113a.

4046. Powers and duties.
(5).
Commission has power to adopt and enforce rules and regulations relating to licensing of engineers and boiler inspection, and approval of governor is unnecessary. Op. Atty. Gen., (34f), January 22, 1940.

HOURS OF, AND RESTRICTIONS ON, LABOR

4087. Ten hours to constitute one day's work, etc.
No state department may enter into arrangement with children's bureau and wage and hour division of United States Department of Labor under which state agencies will make investigations and inspections for purpose of enforcement of federal laws relating to child labor and to wages and hours, notwithstanding that federal government agrees to reimburse state for expenses from time to time. Op. Atty. Gen., (270a-2), Nov. 10, 1939.

There is no state law, and probably no federal law, regulating hours of labor which might be applicable to employment of a police officer by a village. Op. Atty. Gen., (785g), Feb. 18, 1941.

4094. Employment of children under fourteen years.
No state department may enter into arrangement with children's bureau and wage and hour division of United States Department of Labor under which state agencies will make investigations and inspections for purpose of enforcement of federal laws relating to child labor and to wages and hours, notwithstanding that federal government agrees to reimburse state for expenses from time to time. Op. Atty. Gen., (270a-2), Nov. 10, 1939.

4111-1. Employment of minors prohibited.
This is the only statute bearing on employment of persons under 18 years of age in 3.2 beer establishments, and fact that a minor is a child of owner does not exempt him from it. Op. Atty. Gen., (218J-12), April 3, 1940.

WAGES

4127. Penalty for failure to pay wages promptly.
No state department may enter into arrangement with children's bureau and wage and hour division of United States Department of Labor under which state agencies will make investigations and inspections for purpose of enforcement of federal laws relating to child labor and to wages and hours, notwithstanding that federal government agrees to reimburse state for expenses from time to time. Op. Atty. Gen., (270a-2), Nov. 10, 1939.

4137. Assignment of wages in certain cases—Payroll deductions.
Assignment of portion of salary for benefit of specified creditors as a part of a contract of employment entitled creditors to puruse fund accumulated at time of adjudication in bankruptcy of the employee, notwithstanding intervening discharge, bankrupt making no claim to the fund, on theory of unjust enrichment and trust. Lucas v. M., 291NW892. See Dun. Dig. 566.
Unearned compensation of state institutional employees cannot be assigned, and it is not possible to make deductions for insurance premiums from pay roll checks upon written request and authorization by employee. Op. Atty. Gen., (88a-19), Feb. 14, 1940.
City may not adopt and enforce a plan whereby it contracts for a group insurance policy covering all its employees and deduct from salary or wages sum required to pay premium, but this may be done for benefit of all employees consenting thereto. Op. Atty. Gen., (249B-9), Feb. 14, 1940.
Executive council has no authority to approve or put into operation a welfare group plan of accident, health, and surgical benefits sponsored by an insurance company, whereby deductions are to be made from salaries of state employees for payment of premiums. Op. Atty. Gen., (249B-9), Feb. 27, 1940.
City of Minneapolis may not enter into contract with members of police department for assignment of a part of their future wages to Minneapolis police officers group hospitalization service in payment for services in periods in excess of 60 days. Op. Atty. Gen. (249B-9[a]), June 14, 1940.
Board of Education may not contract for group insurance for its employees, but may consent to employees making such a contract and deduct premium from wages with their consent. Op. Atty. Gen. (249B-8), Aug. 27, 1940.
A city is without authority to compel its employees to enter into a group health and accident contract and deduct from their wages or salaries sum required to pay premiums, but may do so with consent of employees. Op. Atty. Gen., (249B-8), Jan. 31, 1941.

4138. Assignment of unearned wages as security.
Filing of a wage assignment with register of deeds is not compliance with this statute. Op. Atty. Gen. (373B-3), June 10, 1940.

4140-4. Industrial Commission—Co-operation with federal Department of Labor.—The Industrial Commission of Minnesota, so far as it is not inconsistent with its duties under the laws of this state, may assist and co-operate with the Wage and Hour Division, The Children's Bureau, and any other authorized agency of the United States Department of Labor in the administration within this state of the act of Congress known as the Fair Labor Standards Act of 1938, approved June 25, 1938, and amendments thereof. No additional expense shall be incurred by the commission in rendering such assistance and co-operation except upon condition that the state be reimbursed therefor in accordance with federal laws and regulations and subject to the applicable laws of this state. (Act Mar. 15, 1941, c. 68, §1.)

4140-5. Same—moneys received from federal government—Appropriation.—All moneys heretofore or hereafter received from the federal government for such reimbursement are hereby appropriated to the Industrial Commission to pay the cost of such assistance and co-operation. (Act Mar. 15, 1941, c. 68, §2.)

DANGEROUS MACHINERY, STRUCTURES AND PLACES

4171. Definition.
An underground mine is a "place of employment". Applequist v. O., 296NW13. See Dun. Dig. 5869.

4174. Ventilation.
An underground miner who became afflicted with a disabling ailment not covered by Compensation Act through negligence of employer in failing properly to ventilate has an action at law for damages. Applequist v. O., 296NW13. See Dun. Dig. 5883.
Evidence held to raise question for jury on question whether underground miner contracted Pneumoconiosis or silicosis in defendant's mines and thereby became afflicted with an aggravation of existing tuberculosis. Id. See Dun. Dig. 5869.

MINIMUM WAGES

4218. Wages, how determined—Order of commission, etc.
Industrial commission may cooperate with United States Department of Labor in enforcement of Fair Labor Standards Act of 1938. Laws 1941, c. 68.

4232. Construction of terms.
(8).
Application of act to growing and raising of fruit, vegetable and flower plants is a question of fact. Op. Atty. Gen., (845), March 27, 1940.

INSPECTOR OF MINES

4235. Duties.
An underground miner who became afflicted with a disabling ailment not covered by Compensation Act through negligence of employer in failing properly to ventilate has an action at law for damages. Applequist v. O., 296NW13. See Dun. Dig. 5869.

EMPLOYMENT AGENCIES

4254-1. Definitions.
Act is constitutional, save as modified by court decision construing §4254-3. Op. Atty. Gen., (736g), April 25, 1940.
Act is constitutional as applied to teachers' agency. Id.

4254-3. Applicant to file written application.
Teachers' agency is an employment agency required to secure a license. Op. Atty. Gen., (270E), Dec. 28, 1939.

4254-4. Duration of and fees for license.
License fee of $150 does not render act unconstitutional. Op. Atty. Gen., (736g), April 25, 1940.

4254-15. Rules governing agencies.
The state legislatures and unionism. 38MichLawRev 987.

MINNESOTA LABOR RELATIONS ACT

4254-21. Definitions.
Validity of statutes restricting picketing and related activities. 1940WisLawRev272.
History and provisions of the Minnesota Labor Relations Act. 24MinnLawRev217.
(b).
A non-profit charitable corporation operating a hospital is an "employer". Northwestern Hospital v. P., 294 NW215.
Board of water, electric, gas and power commissioners of a city cannot enter into a closed shop contract. Op. Atty. Gen., (270), Feb. 28, 1940.
(c).
One employed as an elevator operator, as a janitor or in a similar occupation in a non-profit hospital is an "employee". Northwestern Hospital v. P., 294NW215.
(g).
A union working under a closed shop contract and having only one employee working at a particular place of business cannot institute a strike under this act. Op. Atty. Gen., (270d-9), Oct. 18, 1939.

4254-26. Notice to employer—Notice by employer of change in conditions—Notice of intent to strike—Requisites of notices—Conference.—(a) Whenever any employee, employees, or representative of employees, or labor organization shall desire to negotiate a collective bargaining agreement, or make any change in any existing agreement, or shall desire any changes in the rates of pay, rules or working conditions in any place of employment, it shall give written notice to the employer of its demand which notice shall follow the employer if the place of employment is changed, and it shall thereupon be the duty of the employer and the representative of employee or labor organization to endeavor in good faith to reach an agreement respecting such demand. An employer shall give a like notice to his employees, representatives or labor organizations of any intended change in any existing agreement. If no agreement is reached at the expiration of ten (10) days after service of such notice, any employees, representative, labor organization, or employer may give notice of intention to strike or lockout, as the case may be, but it shall be unlawful for any labor organization or representative to institute or aid in the conduct of a strike or for an employer

to institute a lockout, unless notice of intention to strike or lockout has been served by the party intending to institute a strike or lockout upon the labor conciliator and the other parties to the labor dispute at least ten (10) days before the strike or lockout is to become effective. Unless the strike or lockout is commenced within ninety days from the date of service of the notice upon the labor conciliator, it shall be unlawful for any of the parties to institute or aid in the conduct of a strike or lockout without serving a new notice in the manner prescribed for the service of the original notice, provided that the ninety day period may be extended by written agreement of the parties filed with the labor conciliator.

Notice by the employer shall be signed by him or his duly authorized officer or agent; and notice by the employees shall be signed by their representative or its officers, or by the committee selected to conduct the strike. In either case the notice shall be served by delivering it to the labor conciliator in person or by sending it by registered mail addressed to him at his office. The notice shall state briefly the nature of the dispute and the demands of the party who serves it. Upon receipt of a notice, the labor conciliator shall fix a time and place for a conference with the parties to the labor dispute upon the issues involved in the dispute, and he shall then take whatever steps he deems most expedient to bring about a settlement of the dispute, including assisting in negotiating and drafting a settlement agreement. It shall be the duty of all parties to a labor dispute to respond to the summons of the labor conciliator for joint or several conferences with him and to continue in such conference until excused by the labor conciliator, not beyond, however, the ten day period heretofore prescribed except by mutual consent of the parties.

(b) The labor conciliator may take jurisdiction of a labor dispute in which negotiations for settlement have failed if either party to said dispute before a notice to strike or lockout files a petition requesting said conciliator to act in the dispute, setting forth the issues of the dispute and the efforts to agree and the failure to reach an agreement. If the conciliator takes jurisdiction he shall then proceed as provided in paragraph (a) of this section. (As amended Act Apr. 26, 1941, c. 469, §1.)

Strike notice may be suspended only by mutual consent of all the parties. Op. Atty. Gen., (270d-9), Feb. 15, 1940.

4254-27. Business affected with public interest—Notice to Governor—Appointment of commission—Delay of strike or lockout.—If the dispute is in any industry, business or institution affected with a public interest, which includes, but is not restricted to, any industry, business or institution engaged in supplying the necessities of life, safety, or health, so that a temporary suspension of its operation would endanger the life, safety, health or well being of a substantial number of people of any community, the provisions of section 6 shall apply and the labor conciliator shall also notify the Governor who may appoint a commission of three, to conduct a hearing and make a report on the issues involved and the merits of the respective contentions of the parties to the dispute. If the Governor decides to appoint a commission, he shall so advise the labor conciliator who shall immediately notify the parties to the labor dispute and shall also inform them of the date of the notification to the Governor. The members of such commission shall on account of vocations, employment, or affiliations be representatives of employees, employers and the public respectively. Such report shall be filed with the Governor not less than five days before the end of the thirty day period hereinafter provided and may be published as he may determine in one or more legal newspapers in the counties where the dispute exists. If and when the Governor shall notify the labor conciliator of his decision to appoint a commission, neither party to the dispute shall make any change in the situation affecting the dispute and no strike or lockout shall be instituted until thirty (30) days shall have elapsed after the notification to the Governor; provided, that in case the Governor shall fail to appoint a commission within five days after the notification to him, this limitation on the parties shall be suspended and inoperative; provided further, that if the Governor shall thereafter appoint a commission, no strike or lockout having been instituted in the meantime, the limitation shall again become operative, but in no case for more than said thirty day period. The thirty day period may be extended by stipulation upon the record of the hearing before the commission or by written stipulation signed by the parties to the labor dispute and filed with the labor conciliator. If so extended, the report of the commission shall be filed with the Governor not less than five days before the end of the extended period. (As amended Act Apr. 26, 1941, c. 469, §2.)

This section indicates a legislative intention to include a non-profit hospital as an employer under the Act. Northwestern Hospital v. P., 294NW215.

4254-28. Commission to subpoena witnesses—Contempt—Conciliator may take jurisdiction on request.—(a) The commission appointed by the governor pursuant to the provisions of this act shall have the power to issue subpoenas requiring the attendance and testimony of witnesses and the production of evidence which relates to any matter involved in any such hearing, and may by its chairman administer oaths and affirmations, and may examine witnesses. Such attendance of witnesses and the production of such evidence may be required from any place in the state of Minnesota at any designated place of hearing, but hearings shall be held in a county where the labor dispute has arisen or exists.

(b) In case of contumacy or refusal to obey a subpoena issued under subsection (a) of this section, the district court of the state of Minnesota for the county where the proceeding is pending or in which the person guilty of such contumacy or refusal to obey is found, or resides, or transacts business, or application by the commission shall have jurisdiction to issue to such person an order requiring such person to appear before the commission, there to produce evidence as so ordered, or there to give testimony touching the matter under investigation or in question, and any failure to obey such order of the court may be punished by said court as a contempt thereof.

(c) Any party to or party affected by the dispute may appear before the commission in person or by attorney or by their representative, and shall have the right to offer competent evidence and to be heard on the issues before the report is made.

Any commissioners so appointed shall be paid a per diem of $15.00 per day and their necessary expenses while serving. (As amended Act Apr. 26, 1941, c. 469, §3.)

4254-29. Labor disputes may be submitted to arbitration.

There is a distinct obligation on part of both hospital employers and employees to settle differences in absolute finality by submission to arbitration. Northwestern Hospital v. P., 294NW215.

4254-30. Employees to have right to join labor organization—Lists or organizations.

(a).

Board of water, electric, gas and power commissioners of a city cannot enter into a closed shop contract. Op. Atty. Gen., (270), Feb. 28, 1940.

(c). [Repealed.]

Repealed. Laws 1941, c. 469.

4254-31. What are unfair labor practices by employees.—What are unfair labor practices by employees. It shall be an unfair labor practice:

(a) For any employe or labor organization to institute a strike if the calling of such strike is a violation of any valid collective agreement between any employer and his employes or labor organization and the employer is, at the time, in good faith complying with the provisions of the agreement, or to violate the terms and conditions of such bargaining agreement.

(b) For any employe or labor organization to institute a strike if the calling of such strike is in violation of sections 6 or 7 of this act.

(c) For any person to seize or occupy property unlawfully during the existence of a labor dispute.

(d) For any person to picket or cause to be picketed a place of employment of which place said person is not an employe while a strike is in progress affecting said place of employment, unless the majority of persons engaged in picketing said place of employment at said times are employes of said place of employment.

(e) For more than one person to picket or cause to be picketed a single entrance to any place of employment where no strike is in progress at the time.

(f) For any person to interfere in any manner with the operation of a vehile or the operator thereof when neither the owner nor operator of said vehicle is at said time a party to a strike.

(g) For any employe, labor organization or officer, agent or member thereof to compel or attempt to compel any person to join or to refrain from joining any labor organization or any strike against his will by any threatened or actual unlawful interference with his person, immediate family or physical property, or to assault or unlawfully threaten any such person while in pursuit or lawful employment.

(h) The violation of subsections (b), (c), (d), (e), (f) and (g) of this section are hereby declared to be unlawful acts. (As amended Act Apr. 26, 1941, c. 469, §7.)

4254-32.—What are unfair labor practices by employers.—What are unfair labor practices by employers. It shall be an unfair labor practice for an employer:

(a) To institute any lockout of his employes in violation of any valid collective bargaining agreement between the employer and his employes or labor organization if the employes at the time are in good faith complying with the provisions of the agreement, or to violate the terms and conditions of such bargaining agreement.

(b) To institute any lockout of his employes in violation of sections 6 or 7 of this act.

(c) To encourage or discourage membership in any labor organization by discrimination in regard to hire or tenure of employment or any terms or conditions of employment; provided, however, that this subsection shall not apply to the provisions of collective bargaining agreements entered into voluntarily by an employer and his employees or a labor organization representing said employees as a bargaining agent as provided by section 16 of this act.

(d) To institute any lockout of to discriminate against an employe because he has signed or filed any affidavit, petition or complaint or given any information or testimony under this act.

(e) To spy directly or through agents or any other persons upon any activities of employes or their representatives in the exercise of their legal rights.

(f) To distribute or circulate any blacklist of individuals exercising any legal right or of members of a labor organization for the purpose of preventing individuals so blacklisted from obtaining or retaining employment.

(g) The violation of sub-sections (b), (d), (e) and (f) of this section are hereby declared to be unlawful acts. (As amended Act Apr. 26, 1941, c. 469, §8.)

Section was not mentioned in title to Laws 1941, c. 469, amending this section.

(c).

Evidence held not to sustain finding of labor relations board that employer created or interfered with formation and administration of independent union formed by employees. E. G. Shinner & Co. v. Wrabetz, 292NW(Wis) 902.

4254-34. Suit to enjoin unfair labor practices.—Whenever any unfair labor practice is threatened or committed, a suit to enjoin such practice may be maintained in the district court of any county wherein such practice has occurred or is threatened. In any suit to enjoin any of the unfair labor practices set forth in Mason's Minnesota Supplement 1940, Sections 4254-31, and 4254-32, the provisions of Mason's Minnesota Statutes of 1927, Sections 4257 to 4260, and Mason's Supplement 1940, Sections 4256, and Sections 4260-1 to 4260-15, inclusive, shall not apply; provided, however, that no court of the state of Minnesota shall have jurisdiction to issue a temporary or permanent injunction in any case involving or growing out of the violation of said Section 4254-31 and 4254-32 as herein defined, except after hearing the testimony of witnesses in open court, with opportunity for cross examination, in support of the allegations made under oath, and testimony in opposition thereto if offered, and except after findings of fact by the corut to the effect that the acts set forth in said Sections 4254-31 and 4254-32 have been threatened and will be committed unless restrained, or have been committed and will be continued unless restrained; provided, further, that no temporary restraining order may be issued under the provisions of this act except upon the testimony of witnesses produced by the applicant in open court and upon a record being kept of such testimony nor unless the temporary restraining order is returnable within seven days from the time it is granted which shall be noted on the order by the court. It shall be the duty of the court to give the trial or hearing of any suits or proceedings arising under this section precedence over all other civil suits which are ready for trial. Failure of the trial court to decide a motion for a temporary injunction within sixty days from the date the hearing thereon is concluded shall dissolve any restraining order issued therein without further order of the court. Failure of the trial court to decide any suit brought under this section within forty-five days from the date the trial was ended shall dissolve any restraining order or temporary injunction issued therein without further order of the court. (As amended Act Apr. 26, 1941, c. 469, §5.)

The labor injunction in Minnesota. 24MinnLawRev757.

4254-36. Representatives for collective bargaining—Investigations—Contempt.—

(a) * * * * *

(c) In the investigation of any controversy concerning the representative of employees for collective bargaining, the labor conciliator shall have power to issue subpoenas requiring the attendance and testimony of witnesses and the production of evidence which relates directly to any matter involved in any such hearing, and the labor conciliator or his representative may administer oaths and affirmations, and may examine witnesses. Such attendance of witnesses and the production of such evidence may be required from any place in the state of Minnesota at any designated place of hearing, but hearings shall be held in a county where the question has arisen or exists.

(d) In case of contumacy or refusal to obey a subpoena issued under this section, the district court of the county where the proceeding is pending or in which the person guilty of such contumacy or refusal to obey is found, or resides, shall have jurisdiction to issue to such person an order requiring such person to appear and testify or produce evidence, as the case may require, and any failure to obey such order of the court may be punished by said court as a contempt thereof. (As amended Act Apr. 26, c. 469, §6.)

(b).

There having been a full and complete hearing by labor conciliator, participated in by employer without objection, before certification of a labor union as representative of employees, absence of notice of hearing is unimportant. State v. Haney, 292NW748.

A union working under a closed shop contract and having only one employee working at a particular place of business cannot institute a strike under this act. Op. Atty. Gen., (270d-9), Oct. 18, 1939.

INJUNCTIONS AND RESTRAINING ORDERS

4256. When restraining order or injunction not to be issued.
The labor injunction in Minnesota. 24MinnLawRev757.

4260-1. Jurisdiction of court limited.
The labor injunction in Minnesota. 24MinnLawRev757.
The state legislatures and unionism. 38MichLawRev 987.

4260-4. Court may not issue restraining orders in certain cases.
A non-profit hospital corporation cannot restrain picketing by non-professional maintenance employees desiring to bargain collectively. Northwestern Hospital v. P., 294NW215.

4260-7. Jurisdiction of court in certain cases.
Effect of illegal acts in course of picketing on right to injunction against all picketing. 24MinnLawRev131.
Picketing private residence. 24MinnLawRev132.

4260-12. Definitions.
(a).
Maintenance and non-professional employees of a non-profit hospital are within the statute. Northwestern Hospital v. P., 294NW215.

APPRENTICES

4260-37. Apprentice agreements — Contents. — Every apprentice agreement entered into under this act shall contain:

(1) The names of the contracting parties.

(2) The date of birth of the apprentice.

(3) A statement of the trade, craft, or business which the apprentice is to be taught, and the time at which the apprenticeship will begin and end.

(4) A statement showing the number of hours to be spent by the apprentice in work and the number of hours to be spent in related and supplemental instruction, which instruction shall be not less than 144 hours per year. Provided, however, that the maximum number of hours of work per week not including time spent in related and supplemental instruction for any apprentice shall not exceed either the number prescribed by law or the customary regular number of hours per week for the employees of the company by which the apprentice is employed, such number to be determined by the local joint apprenticeship committee for the trade.

(5) A statement setting forth a schedule of the processes in the trade or industry divisions in which the apprentice is to be taught and the approximate time to be spent at each process.

(6) A statement of the graduated scale of wages to be paid the apprentice and whether the required school time shall be compensated.

(7) A statement providing for a period of probation of not more than 500 hours of employment and instruction extending over not more than four months, during which time the apprentice agreement shall be terminated by the director at the request in writing of either party, and providing that after such probationary period the apprentice agreement may be terminated by the director by mutual agreement of all parties thereto, or canceled by the director for good and sufficient reason.

(8) A provision that all controversies or differences concerning the apprentice agreement which cannot be adjusted locally shall be submitted to the director for determination as provided for in section nine.

(9) A provision that an employer who is unable to fulfill his obligation under the apprentice agreement may, with the approval of the director, transfer such contract to any other employer provided that the apprentice consents and that such other employer agrees to assume the obligations of said apprentice agreement.

(10) Such additional terms and conditions as may be prescribed or approved by the director not inconsistent with the provisions of this act. (As amended Mar. 28, 1941, c. 85, §1.)

CHAPTER 23A

Workmen's Compensation Act

PART I
COMPENSATION BY ACTION AT LAW— MODIFICATION OF REMEDIES

4261. Injury or death of employee. [Repealed.]
Repealed. Laws 1937, c. 64, §10.
Severson v. H., (CCA8), 105F(2d)622. Cert. den., 60SCR 514. Reh. den., 60SCR607.

PART II
ELECTIVE COMPENSATION

4268. Not applicable to certain employments. [Repealed.]
3. Casual employment.
Removing screens and putting on storm windows on two 3-story buildings was casual employment, but employer and employee were within the Act if the employment was in the usual course of business or occupation of employer. Fisher v. M., 294NW477. See Dun. Dig. 10394.

4271. Presumption as to acceptance of provisions of part 2. [Repealed.]
Evidence sustains finding that employer neglected to post and keep posted in a conspicuous place in his place of business, notice of election not to be bound by Part II of compensation act, and his election was inoperative. Walerius v. F., 289NW55. See Dun. Dig. 10389.

4272-1. Employer's right to elect abolished.
Rights and obligations created by compensation act are contractual, and rights granted and obligations imposed necessarily rest upon statute and are limited as granted or imposed by it. McGough v. M., 287NW857. See Dun. Dig. 10385.

A basic thought underlying compensation act is that business or industry shall in the first instance pay for accidental injury as a business expense or a part of cost of production. Id.

Compensation act should receive a broad and liberal construction in the interest of workmen, and court should studiously avoid a narrow or forced construction of third party statute. Id.

Employer's liability has for its foundation the existence of employer-employee relation. Id. See Dun. Dig. 10393.

City employees working out relief furnished them cannot waive their right to benefit of compensation act, notwithstanding they are subject to epileptic fits and insurance companies hesitate to issue policies covering them. Op. Atty. Gen., (523a-17), Jan. 30, 1940.

A waiver signed by one taking employment from a city cannot affect liability for compensation. Op. Atty. Gen., (523E-1), April 18, 1940.

4272-2. All employers shall be insured—Exceptions.
It is optional with municipal officials to insure liability of employees. Op. Atty. Gen., (523E-4), March 15, 1940.

If independent contractor has no employees working for him, he is not required to carry insurance, since he is not an employer. Op. Atty. Gen., (523E-1), April 18, 1940.

Drivers of school buses may be either employees or independent contractors, depending upon terms of contract. Op. Atty. Gen. (523f), Oct. 15, 1940.

4272-3. Liability of employer exclusive.
Fact that person suing for personal injuries may have received payments from defendant's compensation insurer could in no sense be a bar to his common law action based on negligence if he in fact was not an employee engaged within scope of his employment at time of his injury. Hasse v. V., 294NW475. See Dun. Dig. 10386.

An underground miner who became afflicted with a disabling ailment not covered by Compensation Act through negligence of employer in failing properly to ventilate has an action at law for damages. Applequist v. O., 296NW13. See Dun. Dig. 10398.