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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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CHAPTER 33A

Historical Societies

5670-11. County Board or City Councils may furnish room for Historical Societies.

City council may appropriate funds to library board for purpose of constructing an addition to library building to house county historical society, though it has attempted to convey land to trustees of library. Op. Atty. Gen., (285a), Oct. 6, 1939.

CHAPTER 34

State Printing

5671 to 5675. [Repealed.]

Repealed. Laws 1941, c. 381.

Editorial note.—Act Apr. 22, 1941, c. 381, §4, repealing Mason's Statutes of 1927, Chapter 34, does not mention Mason's Statutes, 1940 Supplement and it is very possible that laws appearing therein are not repealed.

5676. Advertisement for bids. [Repealed.]

Repealed. Laws 1941, c. 381.

Editorial note.—Act Apr. 22, 1941, c. 381, §4, repealing Mason's Statutes of 1927, Chapter 34, does not mention Mason's Statutes, 1940 Supplement and it is very possible that laws appearing therein are not repealed.

Mason's Minn. Stat. 1927, c. 34, is still controlling law regarding letting of printing contracts except where inconsistent with Laws 1939, c. 431, and this is true as to such items as letterheads and envelopes. Op. Atty. Gen., (340a), Feb. 2, 1940.

5677 to 5684. [Repealed.]

Repealed. Laws 1941, c. 381.

Editorial note.—Act Apr. 22, 1941, c. 381, §4, repealing Mason's Statutes of 1927, Chapter 34, does not mention Mason's Statutes, 1940 Supplement, and it is very possible that laws appearing therein are not repealed.

CHAPTER 35

Employments Licensed by State Boards or Officials

ATTORNEYS AT LAW

5685. Board of law examiners—Examinations.

Office of attorney is not an office in the constitutional or statutory meaning, but is in nature of a franchise or privilege. *La Belle v. H.*, 288NW788. See Dun. Dig. 664. Control of court over conduct of an attorney does not extend to conduct outside his professional capacity, including political activities and supporting or opposing candidates for judicial office. *Id.* See Dun. Dig. 664.

5687-1. Unauthorized practice of law—Penalty.

"Unauthorized practice of law," discussed and defined. *American Automobile Ass'n. v. M.*, (AppDC), 117F(2d)23, modifying 31FSupp876.

Injunction will lie to restrain illegal practice of law without a license. *Cowern v. N.*, 290NW795. See Dun. Dig. 664.

Judicial branch of state government, as a matter of comity, accepts legislative declaration of public policy relative to unauthorized practice of law insofar as it relates to drafting by brokers, in transactions involving sale, trade or leasing of property or a loan thereon where they represent parties or a party thereto, of instruments incident to such transactions where no charge is made for drafting such instruments; but making of a charge therefor is disapproved. *Id.* See Dun. Dig. 664.

Representation by laymen and hearings before referee or industrial commission in workmen's compensation proceedings. 24MinnLawRev565.

Unauthorized practice of law by lay insurance adjusters. 25MinnLawRev613.

(c).

Unauthorized practice of law—drawing of legal instruments. 24MinnLawRev563.

5688. General duties.

It would outrage ethical proprieties of practice of law for attorney to present a verification of a complaint for signature and oath before he drew the complaint or talked to client about collision involved. *Brusletten v. R.*, 291NW608. See Dun. Dig. 675c.

It is improper and unlawful to accept a retainer as an attorney in a case by an attorney who knows that his testimony is essential to his client's success. *Stephens' Estate*, 293NW90. See Dun. Dig. 10306a.

An attorney is to be criticized for bringing an action and appealing when law is settled that no cause of action exists, especially where any recovery would be small. *Mani v. E.*, 295NW506. See Dun. Dig. 664.

Attorney who sold stolen bonds for client was not liable for conversion where bonds were negotiable and attorney acted in belief that client was legitimate owner. *First Nat. Bank of Blairstown v. G.*, 17Atl(2d)(Pa)377.

5690. Authority.

In suit to recover taxes paid to state of Minnesota on lands lying beyond northern boundary of United States, stipulation of fact that neither plaintiff nor defendant had

knowledge or means of knowledge of location of boundary line between United States and Canada until filing in Land Office of official plat in 1934 was not binding where evidence showed that plaintiff had constructive notice of making of the survey, and could have acquired knowledge of true boundary line as located thereunder through inquiry at state department. *Pettibone v. C.*, (DC-Minn), 31FSupp881.

An infant cannot sustain relationship of client and attorney, but attorney represents the guardian. *Fiske's Estate*, 291NW289. See Dun. Dig. 667.

Stipulation for judgment in district court on a formal award approving workmen's compensation settlement held not obtained by fraud or misrepresentation. *Connors v. U.*, 296NW21. See Dun. Dig. 9003c.

Valuable consideration is not essential to validity of a stipulation in judicial proceedings. *Id.*

5695. Lien for attorneys' fees extended.

Judgments will not be set off upon motion if it will defeat attorney's right to a lien, and this applies as to a judgment for defendant for costs, especially where defendant is without funds and attorney has advanced cost of printing brief. *Exsted v. O.*, 287NW602. See Dun. Dig. 708.

In fixing attorney's fees for plaintiff in a stockholders' action, court should take into consideration fact that corporation appeared by competent counsel and took an active part in the action, recovering in trial court all that it was entitled to recover. *Risvold v. G.*, 292NW103. See Dun. Dig. 699.

5697. Removal or suspension of attorney.

Disbarment will follow where accused has been found guilty of a felony, grand larceny in the first degree. *Turnquist*, 287NW795. See Dun. Dig. 678.

When personal service has been made upon accused and he defaults, an order of discipline will be entered upon assumption that he is guilty as charged. *Id.* See Dun. Dig. 679a.

Findings showing that over long period attorney has displayed persistence in dilatoriness, with such inattention to client's affairs as to result in damage to them and disrepute for the profession, require his disbarment. *Gennow*, 289NW887. See Dun. Dig. 678.

Disbarment will follow where accused attorney has been found guilty of felony of indecent assault. *Van Wyck*, 290NW227. See Dun. Dig. 678.

Evidence held to sustain finding that attorney willfully and knowingly testified falsely when he testified that he and not his wife signed her name to a note and mortgage. *Priebe*, 290NW552. See Dun. Dig. 678.

For repeated conversions of clients' funds (restitution made under compulsion) with wilful deception practiced on the board of law examiners and court, judgment of disbarment ordered. *Smith*, 292NW620. See Dun. Dig. 678.