

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.

Edited by
the
Publisher's
Editorial Staff

*Minnesota State Library
St. Paul, Minnesota*

MASON PUBLISHING CO.

SAINT PAUL, MINNESOTA

1941

CHAPTER 96

Crimes Against Public Justice

RESCUES AND ESCAPES

10007. Escaped prisoners.

Where man is bound over to district court in a county without a jail and is lodged in jail in another county and escapes, escape constitutes another felony and county where escape occurs is liable for cost of apprehending and returning prisoner, but sheriffs of both counties hold outstanding warrants and may enter into an agreement to share expense. Op. Atty. Gen., (341a), April 24, 1940.

PUBLIC RECORDS

10013. Injury to public records.—Every person who shall wilfully and unlawfully remove, mutilate, destroy, conceal, alter, deface, or obliterate a record, map, book, paper, document, or other thing filed or deposited in a public office or with any public officer by authority of law or any public officer or employee who permits any other person to do so shall be punished by imprisonment in the state prison for not more than five years, or by a fine of not more than \$500.00, or by both. (As amended Act Apr. 28, 1941, c. 553, §7.)

PERJURY AND OTHER CRIMES

10016. Perjury defined.**1. What constitutes.**

Perjury means not only testifying under oath to what is untrue, but that the one so testifying knew and ap-

preciated at moment of giving testimony that it was false and untrue. Friebe, 290NW552. See Dun. Dig. 7474. What happens to perjurers. 24MinnLawRev727.

10034. Compounding crimes.

One convicted of compounding a crime on plea of guilty cannot question the conviction in a disbarment proceeding. Wallace, 296NW534. See Dun. Dig. 678.

10053. Falsely auditing and paying claims.

Evidence held to show false audit and payment of claims on state. State v. Elsberg, 295NW913. See Dun. Dig. 8846c.

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.

10055. Conspiracy defined—How punished.

Immunity of judicial officers to civil action for judicial acts cannot be avoided by pleading that acts complained of were results of a conspiracy previously entered into. Linder v. F., 295NW299. See Dun. Dig. 4959.

The labor injunction in Minnesota. 24MinnLawRev757. The state legislatures and unionism. 38MichLawRev 987.

10060-1. Printing and circulating certain documents prohibited.

A "notice before suit" signed by a justice of the peace would violate this section. Op. Atty. Gen., (161a-8), Mar. 19, 1941.

CHAPTER 97

Crimes Against the Person

HOMICIDE

10068. Murder in second degree.—Such killing of a human being, when committed with a design to effect the death of the person killed or of another, but without deliberation and premeditation, or when such killing is committed without a design to effect the death of the person killed or of another and without deliberation or premeditation by a person attempting to commit or engaged in the commission of a rape, assault with an attempt to commit rape, indecent assault, or sodomy, or any thereof either upon or affecting the person killed or otherwise, is murder in the second degree and shall be punished by imprisonment in the state prison for the offender's natural life. (As amended Act Apr. 19, 1941, c. 314, §1.)

Evidence sustained verdict of murder in second degree. State v. Palmer, 288NW160. See Dun. Dig. 4233.

10070. Murder in third degree.—Such killing of a human being, when perpetrated by act eminently dangerous to others, and evincing a depraved mind, regardless of human life, although without a premeditated design to effect the death of any individual, or without a design to effect death, by a person engaged in the commission of, or in an attempt to commit, any felony, except rape, assault with an attempt to commit rape, indecent assault, or sodomy, either upon or affecting the person killed or otherwise, is murder in the third degree, and shall be punished by imprisonment in the state prison for not less than seven

years, nor more than thirty years. (As amended Act Apr. 19, 1941, c. 314, §2.)

Act Apr. 19, 1941, c. 314, §3, provides that all offenses committed, and all penalties and punishments incurred therefor, prior to the taking effect hereof, shall be prosecuted and punished in the same manner and with the same effect as if this amendment had not been passed. Also applicable to §10068.

10073. Manslaughter defined.

Because in manslaughter case evidence as strongly supported an inference of innocence as it did one of guilt, a new trial was ordered. State v. Larson, 292NW 167. See Dun. Dig. 4247.

10076. Killing of unborn child or mother.

Evidence held sufficient to sustain a conviction of manslaughter in first degree incident to an abortion. State v. Lemke, 290NW307. See Dun. Dig. 4240a.

ASSAULT

10098. Assault in second degree defined—How punished.**3. Indictment.**

Two offenses cannot be joined in one information but means for committing same offense can be alleged in alternative. Op. Atty. Gen., (133B-7), April 29, 1940.

LIBEL AND SLANDER

10120. Slander of women.

School board member convicted of misdemeanor of slander of women is not subject to removal. Op. Atty. Gen., (475E), May 2, 1940.

CHAPTER 98

Crimes Against Morality, Decency, Etc.

RAPE—ABDUCTION—CARNAL ABUSE, ETC.

10125. Carnal knowledge of children.**6. Evidence.**

In a prosecution for carnal knowledge, evidence of prior acts of sexual intercourse of complaining witness

with defendant is admissible as disclosing inclination of parties to commit act complained of and as corroborative of specific charge. State v. Elijah, 289NW575. See Dun. Dig. 8243a.

Ordinarily evidence showing that the complaining witness had sexual intercourse with other men is not ad-