

1944 Supplement  
To  
**Mason's Minnesota Statutes, 1927**  
and  
**Mason's 1940 Supplement**

Containing the text of the acts of the 1941 and 1943 Sessions of the Legislature, both new and amendatory, and notes showing repeals, together with annotations from the various courts, state and federal, and the opinions of the Attorney General, construing the constitution, statutes, charters and court rules of Minnesota together with 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 [Repealed.]**

Repealed.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 [Repealed.]**

Repealed.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 [Repealed.]**

Repealed.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.

#### Chapter 107.—STATUTES.

#### CONSTRUCTION

**10928. When to take effect. [Repealed.]**

Repealed. Laws 1941, c. 492.

As a rule, neither statutes nor rules by administrative bodies under statutory sanction operate retrospectively, unless clearly designated. *Nollet v. Hoffmann*, 210M88, 297NW164, 134ALR192. See *Dun. Dig.* 8946.

**10929. Revision to operate as repeal, when. [Repealed.]**

Repealed.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 [Repealed.]**

Repealed.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*, 208M523, 294NW647.

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*, 209M530, 296NW906. See *Dun. Dig.* 8923.

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. *Id.*

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.

**½. Rules of construction in general.**

*Minnesota v. Probate Court*, 309US270, 60SCR523, 84 LED744, 126ALR530, aff'g 205M545, 287NW297.

*State v. Keeley*, (C.C.A.8), 126 F. (2d) 863, rev'g *State v. Ristine*, (DC-Minn.), 36 F. Supp. 3, on other grounds. *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.*, 207M315, 291NW 292. 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.*, 208M13, 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.*, 208M263, 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 individual 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. See 10933-17.

Popular and accepted meaning of the import of words used by the legislature must be followed by the courts. *Id.* See 10933-9(1).

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*, 206M167, 288NW13. See *Dun. Dig.* 8986.

An exception in a statute is to be construed in harmony with remainder of statute. *State v. Goodman*, 206M203, 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.*, 206M308, 288 NW584. 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.*, 206M360, 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*, 208M342, 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.*, 208M498, 294 NW643. 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.*, 208M 478, 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.*, 209M29, 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.*, 209M219, 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.*, 209M379, 296NW415. See Dun. Dig. 8947a.

Capricious distinctions are not to be imputed to legislation, and unjust and indefensible results of a statute are to be avoided by construction, if possible. *Pomeroy v. N.*, 209M155, 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.*, 208M509, 295NW 529. See Dun. Dig. 8938.

Consistent policy of state's collection officers in following a literal application of tax law over a period of years is entitled to great weight. *Arneson v. W. H. Barber Co.*, 210M42, 297NW335. See Dun. Dig. 8952.

When wording of a statute is obscure court should only search for intention or meaning of legislature, and in so doing other parts of statute relating to same subject may lend aid. *Galbraith's Estate*, 210M356, 298 NW253. See Dun. Dig. 8940, 8951.

When wording of statute is obscure court may consider history of legislation concerning the subject matter. *Id.* See Dun. Dig. 8966.

Rules of grammar are not to be ignored in construing a statute. *Id.* See Dun. Dig. 8972.

Where a statute is amended it must be assumed that there was a purpose to change law of subject and not merely to improve language of existing law. *Id.* See Dun. Dig. 8997.

When an ordinance is within grant of power conferred upon a municipality, presumption is that it is reasonable unless unreasonable character appears upon its face. *State v. Houston*, 210M379, 298NW358. See Dun. Dig. 6755.

Weight given by courts to administrative construction. 24MinnLawRev129.

Ambiguity of unambiguous statutes. 24MinnLawRev 509.

The ambiguity of unambiguous statutes. 24MinnLaw Rev509.

Use of preambles or recitals in construction. 25 Minn LawRev 924.

### 1. Judicial duty and policy.

*State v. Probate Court, Ramsey County*, 205M545, 287 NW297. *Aff'd* 309US270, 60SCR523, 84LEd744, 126ALR530.

Statutory amendment should be by legislature and not by court, especially where statute is in derogation of common law. *Kangas v. W.*, 207M315, 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.*, 209M29, 295NW75. See Dun. Dig. 8929, 8930, 8931.

It is not for administrative officers, or the courts, by forced interpretation, to amend a statute. *Arneson v. W. H. Barber Co.*, 210M42, 297NW335. See Dun. Dig. 1587.

Courts have no power to declare an ordinance void as being unreasonable unless unreasonableness is so clear, manifest, and undoubted as to amount to a mere arbitrary exercise of the power vested in legislative body. *State v. Houston*, 210M379, 298NW358. See Dun. Dig. 6755.

### 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.*, 206M458, 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.*, 207M580, 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.*, 209M58, 295NW412. See Dun. Dig. 8935.

One may not, while seeking benefits of a statute attack its constitutionality. *Byard v. C.*, 209M215, 296NW10. See Dun. Dig. 8935.

A foreign insurance company which does not allege that it has real or personal property in the state is without interest to raise question of constitutionality of two per cent tax on gross premium on ground that there is a discrimination in favor of domestic companies, who are excused from paying tax on personal property while foreign companies must pay tax on both real and personal property. *State v. Casualty Mut. Ins. Co.*, 213M220, 6NW(2d)800. See Dun. Dig. 8935.

Where the particular objectionable feature of a statute does not operate so as to prejudice a party, he is

without interest to raise the question of constitutionality. *Id.*

### 3. Repeal.

*State v. Northwest Linseed Co.*, 209M422, 297NW635. *App. dism'd* 313US544, 61SCR960, 85LEd1511.

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. *Nat'l 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.*, 206M649, 289 NW784, 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.*, 207M202, 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*, 208M342, 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.*, 209M230, 296NW13. See Dun. Dig. 8927.

A statute which expressly supersedes an earlier one is a repeal thereof. *State v. Railroad and Warehouse Com'n.*, 209M530, 296NW906. See Dun. Dig. 8926.

A municipal council, unless prohibited by statute, constitution, or charter, may repeal an ordinance by implication without express words to that effect. *State v. Northwest Linseed Co.*, 209M422, 297NW635, *app. dism'd* 313US544, 61SCR960, 85LEd1511. See Dun. Dig. 6790.

Rules governing repeal of statutes apply to repeal of city ordinances. *Id.*

There can be no repeal of an ordinance by implication unless later city ordinance is so consistent with and repugnant to former that they cannot stand together, and effect will be given to both if possible. *Id.*

Repeals by implication are not favored and will not be inferred unless such was manifest intention of legislature or unless later statute fully covers subject of prior one and is manifestly inconsistent therewith. *Id.* See Dun. Dig. 8927.

A general statute will not repeal a prior special statute on same subject where it is clear that such was not intention of legislature. *Id.*

An act will not necessarily be repealed because some or all of its provisions are covered by a later act, for later act may be merely cumulative or auxiliary. *Id.*

Where a new mode of procedure is authorized without an express repeal of a former one relating to same matter and a new remedy is not inconsistent with former, later act will be regarded as creating a concurrent mode and not abrogating former mode of procedure. *Id.*

### 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 §10939 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 intention, includes adopted children. *Holden's Trust*, 207 M211, 291NW104. 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.) [645.01]

**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.) [645.02]

**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.) [645.03]

**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.) [645.04]

**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.) [645.05]

**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.) [645.06]

**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.) [645.07]

Advanced time established by Congress becomes standard time in this state, and all state laws and municipal ordinances must be construed with reference thereto. Op. Atty. Gen. (83F), Feb. 6, 1942.

This would not apply to certain game and fish laws. Id. War time schedule to be disregarded in respect to hours for taking game or fish where prescribed by statute. Op. Atty. Gen. (208A-3), Feb. 19, 1942.

War time, daylight saving or standard time, whichever may be in effect, shall be followed in making out birth and death certificates. Op. Atty. Gen. (83f), Apr. 20, 1942.

**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.) [645.08]

Where a statute defines and prescribes a duty dependent upon a finding of certain facts, duty becomes absolute and without discretion upon finding of such facts. *Tri-State Tel. & Tel. Co. v. Intercounty Tel. Co.*, 211M496, 1NW(2d)853. See Dun. Dig. 8954.

In construing a statute courts should be careful not to apply such a rigid and literal reading as would in many cases defeat its very object. *Judd v. Landin*, 211M465, 1NW(2d)861. See Dun. Dig. 8943.

A teacher's "qualifications" and his "position" are not coextensive. *State v. Board of Education of Duluth*, 213M550, 7NW(2d)544. See Dun. Dig. 8686.

All statutory provisions, not on their face merely permissive or discretionary, are intended to be obeyed, or else they would never have been enacted and therefore they come to the several officers who are to act under them as commands. *State v. Pohl*, 214M221, 8NW(2d)227. See Dun. Dig. 8954.

Whenever public interests or individual rights call for exercise of a power given to public officials, language used in conferring the power, though permissive in form, is to be deemed mandatory. Id.

(1). *State v. Keeley*, (C.C.A.8), 126 F. (2d) 863, rev'g *State v. Ristine*, (DC-Minn), 36 F. Supp. 3, on other grounds.

**10933-10. Roman and Arabic numerals.**—Roman and Arabic numerals are parts of the English language. (Act Apr. 28, 1941, c. 492, §9.) [645.09]

**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.) [645.10]

**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.) [645.11]

This section is a substantial reenactment of Mason's St. 1927, §10937, and Laws 1941, c. 103, amending such section should be given effect. Op. Atty. Gen. (83f), May 19, 1942. See §10937 in Mason's 1941 Supp.

**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.) [645.12]

In Independent School District No. 8 of Olmsted County which includes territory embraced in City of Rochester and some lands outside of city, notice of annual election should be posted in three places in district irrespective of boundaries of city and disregarding precincts and wards. Op. Atty. Gen. (187a-7), Feb. 24, 1943.

**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.) [645.13]

Publication of a notice for a period of two successive weeks requires that day on which notice first appeared in newspaper shall be excluded and fourteenth day thereafter included in computing two weeks, and publication is not complete until end of fourteenth day. Op. Atty. Gen., (396c-18), Apr. 30, 1941.

**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.) [645.14]

**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.) [645.15]

When no time is specified in a statute for performance of a public duty imposed by law upon a public officer, it is required that act be performed within a reasonable time. State v. Pohl, 214M221, 8NW(2d)227. See Dun. Dig. 9630.

November 30, 1941, falling on Sunday, December 1 was last day to make application for renewal of chauffeurs' licenses. Op. Atty. Gen. (635d), Dec. 1, 1941.

Date of village election was December 8, 1942, and last date to file as candidate for election was November 24, 1942, two weeks before election day. Op. Atty. Gen. (911a-1), Nov. 16, 1942.

**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.) [645.16]

State v. Keeley, (C.C.A.8), 126 F. (2d) 863, rev'g State v. Ristine, (DC-Minn), 36 F. Supp. 3, on other grounds.

General rule requiring adherence to the letter of the statute applies with strictness to federal taxing acts. St. Paul Fire & Marine Ins. Co. v. Reynolds, (DC-Minn), 44 F. Supp. 863. See Dun. Dig. 9173.

In case of doubts federal taxing statutes are construed in favor of the taxpayer. Id.

Ordinary rules of statutory construction apply to city charters. *Weiss v. City of St. Paul*, 211M170, 300NW795. See Dun. Dig. 6774.

Cannons of construction are not masters of courts, but merely their servants, to aid them in ascertaining legislative intent; and when such intent is ascertained statute must be so construed as to give it effect. *Judd v. Landin*, 211M465, 1NW(2d)861. See Dun. Dig. 8937.

It is the duty of courts, even where a legislative act is imperfectly drawn, to ascertain legislative purpose from a consideration of the act as a whole, and to interpret it, if possible, so that it will accomplish that purpose. *Id.* See Dun. Dig. 8951.

A broad but fair construction is to be given statutes having for their end the promotion of important and beneficial object. *Id.* See Dun. Dig. 8988.

In construing statutes, ordinances or city charters, court should look to substance rather than to label since ascertainment of legislative intent is the aim, though construction to be adopted and used must be reasonable, such as chosen language "will reasonably bear". *Evans v. City of St. Paul*, 211M558, 2NW(2d)35. See Dun. Dig. 8940.

Where a statute is couched in broad and comprehensive language admitting of no exceptions, court is not justified in engrafting thereon exceptions, however much it may deem public welfare to require them. *State v. Tennyson*, 212M158, 2NW(2d)833, 139ALR987. See Dun. Dig. 8948.

A construction is not permissible that an act clearly intended to constitute but one offense in fact constitutes two separate offenses. *Id.* See Dun. Dig. 8989.

An obscurely phrased statute should be construed so as to give effect to presumed legislative intention. *McDonnell v. Drawz*, 212M283, 3NW(2d)419, 141ALR970. See Dun. Dig. 8940.

Absent legislative manifestation of contrary intention, reenactment of a statute without change after it has received a practical construction by executive or administrative departments of government for a long period of time adopts the prior construction. *Enger v. Holm*, 213M154, 6NW(2d)101. See Dun. Dig. 8952.

A court possesses no power to write words of limitation into an otherwise unambiguous statute. *State v. State Board of Education*, 213M184, 6NW(2d)251, 143ALR 503. See Dun. Dig. 8938.

Rule that ambiguities in statutes imposing taxes are to be resolved in favor of taxpayers does not apply to deductions, which are allowable only when plainly authorized. *Abbott's Estate*, 213M289, 6NW(2d)466. See Dun. Dig. 9173.

The cardinal principle of statutory construction is to save and not to destroy. *State v. Falch*, 213M353, 6 NW(2d)805. See Dun. Dig. 8950.

A remedial statute should be so construed as to give it full effect, since a cardinal principle of statutory construction is to save and not to destroy. *Id.* See Dun. Dig. 8950(63).

There is no universal rule by which directory provisions in a statute may, under all circumstances, be distinguished from those which are mandatory, and consideration must be given to legislative history, language of statute, its subject matter, importance of its provisions, their relation to general object intended to be secured by the act, and whether there is a public or private right involved. *State v. Pohl*, 214M221, 8NW(2d)227. See Dun. Dig. 8954.

A remedial statute should be so construed as to give effect to the obvious legislative intent. *Radermacher v. St. Paul City Ry. Co.*, 8NW(2d)466, 145ALR1027. See Dun. Dig. 8937.

There is neither room nor reason for interpretation of a statute where there are no uncertainties, ambiguities, or doubts in its provisions. *Eystad*, 214M490, 8NW(2d) 613. See Dun. Dig. 8938.

A remedial statute should receive such fair and liberal construction as to make it a workable one, thereby giving force and effect to the legislative purpose. *Gleason v. Geary*, 214M499, 8NW(2d)808. See Dun. Dig. 8937.

Legislative intent is to be ascertained from the language employed by the lawmakers, but if that language is doubtful its provisions must be construed in the light of the general legislative purpose, and the policy and object of the enactment should be considered with the general legislation on the subject viewed as a whole. *Id.* See Dun. Dig. 8940.

The legislative purpose of protecting the public from the menace of drivers operating motor vehicles while intoxicated should not be thwarted by a construction that does violence to the clear and unambiguous language of the statutes relating thereto. *Martinka v. Hoffmann*, 214 M346, 9NW(2d)13. See Dun. Dig. 8938.

When the language of statutes is unambiguous, the clearly expressed intent of the legislature must be given effect, and there is no room for construction. *Id.*

An instrument must always be construed as a whole, and the particular meaning to be attached to any word or phrase is usually to be ascertained from the context, the nature of the subject treated of, and the purpose or intention of the parties who executed the contract, or the body which enacted or framed the statute or constitution. *Merritt v. Stuve*, 215M44, 9NW(2d)329. See Dun. Dig. 8951.

Rules of construction are mere aids in ascertaining the meaning of writings, whether they are statutes, contracts,

deeds, or mortgages, and they are neither ironclad nor inflexible and yield to manifestation of contrary intention. *Romanchuk v. Plotkin*, 215M156, 9NW(2d)421. See Dun. Dig. 8940.

Where an act was revised subsequent to a regulatory provision without modifying the provision, it must be taken to have approved the administrative construction and thereby to have given it the force of law. *Union Brokerage Co. v. Jensen*, 215M207, 9NW(2d)721. See Dun. Dig. 8952.

A statute must always be construed as a whole, and the particular meaning to be attached to any word or phrases is usually to be ascertained from the context, the nature of the subject treated of, and the purpose or intention of the body which enacted the statute. *Tankar Gas v. Lumbermen's Mut. Casualty Co.*, 215M265, 9NW(2d) 754, 146ALR1223. See Dun. Dig. 8951.

An amendatory provision added to a statute will be held to be mandatory and not directory if to hold otherwise would render ineffectual a substantial portion of the law. *State v. Stein*, 215M308, 9NW(2d)763. See Dun. Dig. 8954.

Though doubtful of wisdom and fairness of a statute, it is not for the court to encroach upon the legislative function by a construction which does violence to the plain intention of the lawmaking body. *Cashman v. Hedberg*, 215M463, 10NW(2d)388. See Dun. Dig. 8940.

Terms "may" and "must" are used interchangeably, and to determine imports thereof, consideration will be given to the subject matter, the language of the statute, the importance of the provisions, the object intended to be achieved, and the legislative intent. *Id.* See Dun. Dig. 8954, 8979.

The rule of *in pari materia* can be invoked only when the two statutes under consideration relate to the same subject matter and the same class of actions. *Id.* See Dun. Dig. 8984.

The aim and purpose of construction is to give effect to the legislative intent. *Christensen v. Hennepin Transp. Co.*, 215M394, 10NW(2d)406, 147ALR945. See Dun. Dig. 8940.

Parts of a statute are not to be viewed in isolation, but statute should be construed as a whole. *Id.* See Dun. Dig. 8951.

Words and sentences are to be understood in no abstract sense, but in the light of their context, which communicates meaning and color to every part of a statute. *Id.* See Dun. Dig. 8968.

The duty to construe a remedial statute liberally simply means that the court should so apply it as to suppress the mischief sought to be avoided by affording the remedy intended, and stops short of extending a statute to purposes and objects not mentioned therein. *Id.* See Dun. Dig. 8986.

However radical the change, a statute inaugurating new policy should have a fair construction, with the purpose of its enactment in view, not narrowed or restricted because it is a substitute for the discarded common law. *Cocker v. Cocker*, 215M565, 10NW(2d)734. See Dun. Dig. 8959.

The opinion of the attorney general, though not binding upon the courts as to construction of laws relating to school matters, is binding on school officers until reversed by the courts. *Belkema v. Bd. of Education of City of Duluth*, 215M590, 11NW(2d)76. See Dun. Dig. 8952.

Applies in construing statute involving maintenance of highway by adjoining counties. *Op. Atty. Gen. 370(d)*, May 10, 1943.

Use of preambles or recitals. 25 *MinnLawRev* 924.

(4). Object to be obtained and means to be applied to reach that objective are to be considered in construction of a city charter provisions. *Evans v. City of St. Paul*, 211M 558, 2NW(2d)35. See Dun. Dig. 8962(28).

(7). The legislative history of a statute may be considered in determining its meaning, including committee reports. *Barlau v. Minneapolis-Moline Power Implement Co.*, 214 M564, 9NW(2d)6. See Dun. Dig. 8963, 8965.

(8). Administrative interpretation tested by many years of practical and satisfactory experience is important in construing a statute, ordinance or city charter. *Evans v. City of St. Paul*, 211M558, 2NW(2d)35. See Dun. Dig. 8952(70).

Administrative construction of statutes of doubtful meaning is persuasive, but it does not preclude a different construction by the court. *Abbott's Estate*, 213 M289, 6NW(2d)466. See Dun. Dig. 8952.

Great weight should be given departmental construction of taxation statutes if such construction has been long continued. *Id.*

**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.)

[645.17]

Tankar Gas v. Lumbermen's Mut. Casualty Co., 215M 265, 9NW(2d)754, 146ALR1223.

When literal interpretation of a statute involves any absurdity, contradiction, injustice, or extreme hardship, courts may deviate a little from received sense and literal meaning, and interpret in accordance with what may appear to have been intention of its framers, and real intention when accurately ascertained must prevail in all cases. Kellerman v. City of St. Paul, 211M558, 1NW(2d)378. See Dun. Dig. 8940, 8947.

Questions involving government must not be determined along technical lines, but rather upon broad and practical consideration. Evans v. City of St. Paul, 211M 588, 2NW(2d)35. See Dun. Dig. 8939.

What the legislature says is to have a fair and reasonable construction. State v. Yurkiewicz, 212M208, 3NW(2d)775. See Dun. Dig. 8939.

Where state income tax statute is the same or substantially the same as the federal act from which it was copied, the prior construction of the federal statute should be deemed controlling in construing the state statute. State v. Stickney, 213M89, 5NW(2d)351. See Dun. Dig. 8956.

A construction that is reasonable and practical must be given. Merritt v. Stuve, 215M44, 9NW(2d)329. See Dun. Dig. 8939.

A construction which would result in absurdity, injustice, or inconvenience should be avoided. Id. See Dun. Dig. 8947.

A statute should be reasonably construed so as to give a practical effect to its provisions. Tankar Gas v. Lumbermen's Mut. Casualty Co., 215M265, 9NW(2d)754. See Dun. Dig. 8939.

By re-enactment, without amendment, legislature adopted judicial interpretation given to a statute. Cashman v. Hedberg, 215M463, 10NW(2d)388. See Dun. Dig. 8965.

When attorney general has rendered an opinion construing school laws and it has not been reversed by the courts and the law has been reenacted in the same language, it may be assumed in construing the law that the legislative intent was that the reenacted language should have the interpretation which the attorney general had placed upon it, if it is susceptible of that construction. Eelkema v. Bd. of Education of City of Duluth, 215M590, 11NW(2d)76. See Dun. Dig. 8952.

(4). Gleason v. Geary, 214M499, 8NW(2d)808; note under §4272-5(1), 176.06(1).

**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.) [645.18]

Imperfect punctuation is not of controlling importance in construing a statute, as where there is a misplaced comma. Judd v. Landin, 211M465, 1NW(2d)861. See Dun. Dig. 8974.

Bad grammar alone will not vitiate a statute. Id. See Dun. Dig. 8972.

**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.) [645.19]

An exception comprehends only subject matter from which the exception is made. McDonnell v. Drawz, 212M 283, 3NW(2d)419, 141ALR970. See Dun. Dig. 8948.

**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 inseparable 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.) [645.20]

**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.) [645.21]

**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.) [645.22]

**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 person 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.) [645.23]

**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.) [645.24]

**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.) [645.25]

**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.) [645.26]

Specific terms covering a given subject will prevail over general language which otherwise might be controlling. Weiss v. City of St. Paul, 211M170, 300NW795. See Dun. Dig. 8970.

The expressed prevails over what might otherwise be implied just as does the definite over the indefinite, the particular over the general. Id. See Dun. Dig. 8949, 8970.

When general and specific provisions conflict, the specific controls, particularly when the specific is enacted after the general. Tanner v. Civil Service Commission, 211M450, 1NW(2d)602. See Dun. Dig. 8970.

In construing a general and specific statute on same subject matter a construction that would render some provisions of specific acts surplusage should be avoided if possible. Id. See Dun. Dig. 8984.

Where general and specific provisions are in conflict, specific and not general controls. *Judd v. Landin*, 211M 465, 1NW(2d)861.

Two statutes relating to the same subject matter and in pari materia should be construed with reference to each other, especially if just and reasonable results are thereby obtained. *Flakne v. Erickson*, 213M146, 6NW (2d)40. See Dun. Dig. 8984(3).

Two acts passed, approved, and effective the same day, are to stand together and be harmonized. *Martinka v. Hoffmann*, 214M346, 9NW(2d)13. See Dun. Dig. 8984.

**Subd. 1.**

A special or particular law prevails over a general law touching same matters and passed at same session of legislature. *Wolner v. State*, 213M96, 5NW(2d)67. See Dun. Dig. 8970.

Laws 1941, c. 405, prevails over Laws 1941, c. 242, and license fee for sale of cigarettes is \$12.00 per year. Op. Atty. Gen., (829c-3), July 31, 1941.

**Subd. 3.**

Where two acts of legislature submitted constitutional amendments and each directed that proposition be placed as number one on official ballot, act last passed is controlling. Op. Atty. Gen., (86A-4), Jan. 7, 1942.

Latest of two inconsistent acts passed at same station of legislature controls. Op. Atty. Gen., (519c), May 28, 1943.

**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.) [645.27]

Deputy registrars of motor vehicles do not come within term "occupation" in minimum wage law, nor are they entitled to benefits of social security laws of the state. Op. Atty. Gen., (385b-2), Dec. 3, 1942.

**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.) [645.28]

In a revision a change in phraseology or punctuation is presumed to be intended to simplify the language of the prior act, not to change its meaning. *Sexton v. Baehr*, 212M265, 3NW(2d)1. See Dun. Dig. 8961.

**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.) [645.29]

**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.) [645.30]

**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.) [645.31]

A statute amended "so as to read as follows" operates to repeal all the provisions not embraced in the amendment. *Martinka v. Hoffmann*, 214M346, 9NW(2d)13. See Dun. Dig. 8928.

When an amendatory act is a substitute for the original statute, it repeals those portions of the prior statute which it omits. *Id.*

It is not necessary that penal provision of an act be repeated in connection with amendment of part of act in order to apply to the amended portion. *State v. Stein*, 215M308, 9NW(2d)763. See Dun. Dig. 8926.

Construing Laws 1943, c. 411, and Laws 1943, c. 531, together, officers of Mower County were not entitled to increased salaries between the approval dates of the two acts in view of Laws 1941, c. 492, 531. Op. Atty. Gen., (104a-9), June 7, 1943.

An amendment should 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 should be read together and viewed as one act passed at one time. Op. Atty. Gen., (331a-7), July 12, 1943.

**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.) [645.32]

**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.) [645.33]

Applying this section, Laws 1943, c. 536 and 602 are not in conflict and effect should be given to each. Op. Atty. Gen., (632e-34), Apr. 30, 1943.

An amendment in one session of the legislature which was overlooked by an amendment in the following session of the legislature was construed as being in effect. Op. Atty. Gen., (632e-32), May 18, 1943.

**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.) [645.34]

The repeal of an amended statute repeals the statute amending the same. Op. Atty. Gen., (160g), Dec. 18, 1942.

When a statute is repealed all amendments there-of are repealed. Op. Atty. Gen., (160g), Dec. 21, 1942.

**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.) [645.35]

Where administrative board fully exercised its right of removal of an appointive officer at time of repeal of statute giving it right of removal, repealing statute could not be given retroactive effect so as to destroy the fully executed right of removal, but legislature would have constitutional right to qualify board's right of removal during pendency of removal proceeding. *State v. State Board of Education*, 213M184, 6NW(2d)251, 143 ALR503. See Dun. Dig. 8946.

An unconstitutional statute can be repealed, the repeal at least serving purpose of purging laws of what



purports to be, but is not, a statute. *City of Jackson v. Jackson County*, 214M244, 7NW(2d)753. See Dun. Dig. 8923.

**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.) [645.36]

**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.) [645.37]

Reenactment of a statute without substantial change adopts prior construction thereof. *Hencke's Estate*, 212M407, 4NW(2d)353. See Dun. Dig. 8925.

Where section of statute was repealed and substantially reenacted in another section of the same act, an earlier act at same session amending repealed section should be given effect. *Op. Atty. Gen.* (83f), May 19, 1942.

**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.) [645.38]

**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.) [645.39]

A new statute intended to prescribe only rules governing subject matter of legislation supersedes and repeals a prior statute. *Aura v. Brandt*, 211M281, 1NW(2d)381. See Dun. Dig. 8927.

A later statute covering entire subject matter of and intended as a substitute for an earlier one, although it does not expressly refer to or purport to amend or repeal it, operates to repeal it by implication, for the reason that the later statute is the last expression of the legislative will. *City of Jackson v. Jackson County*, 214M244, 7NW(2d)753. See Dun. Dig. 8926, 8927.

The rule of repeal by implication applies to unconstitutional as well as to constitutional statutes, and where a former statute has been held unconstitutional, a later statute covering the same subject matter and intended as a substitute for it, even though it contains no express provision to that effect, repeals the former by implication. *Id.* See Dun. Dig. 8927.

Where a new statute, not in the form of amendment to prior statute, is complete in itself, and shows that the legislature intended to substitute its provisions for those previously in force and intended the new statute to prescribe the only rules governing the subject-matter of the legislation, it supersedes all prior legislation in respect to such subject-matter and repeals all prior laws in so far as they apply thereto. *Eystad*, 214M490, 8NW(2d)613. See Dun. Dig. 8927(20).

**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.) [645.40]

**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.) [645.41]

**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.) [645.42]

**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.) [645.43]

**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.)

[645.44]

(4). Village assessor should not work on Sundays or holidays, and should not be compensated for work done on those days. Op. Atty. Gen. (12B-1), Feb. 13, 1942.

Monday May 21; following Decoration Day on Sunday, is not a legal holiday. Op. Atty. Gen. (276c), May 25, 1943.

(13). Notice of strike or lock-out must be signed in writing of person giving or authorizing it, and not by stamp, typewriting, mimeographing, multigraphing, or printing. Op. Atty. Gen., (270d-9), May 26, 1941.

**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 work 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.)

[645.45]

**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.**

Laws 1943, c. 13, provides that certain newspapers suspending publication, or using the employees, facilities or equipment of other newspapers in the state for publication purposes, prior to December 31, 1941, due to conditions and emergencies of the World War, may continue to be qualified as a medium of official and legal publications.

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.

(3). Where two legal papers published on different days consolidate and publish only one day each week, the consolidated paper is a legal paper. Op. Atty. Gen. (314B-9), Sept. 13, 1942.

**10935-2. Newspapers to continue to be official publications under certain conditions.**—Any newspaper qualified under Mason's Supplement 1940, Section 10935-1 in this state established prior to December 7, 1941, forced by any exigency directly attributable to the conditions and emergencies of the World War started on December 7, 1941, to suspend publication or to use the employees, facilities, or equipment of some other newspaper in the state or to use the place of publication of such other newspaper as its place of publication shall not thereby be deprived of its standing as a legal newspaper qualified as a medium of official and legal publications. If such suspension of publication or use of the employees, facilities, or equipment or the place of publication of such other newspaper continues for more than six months after the final declaration of peace ending such world war, such newspaper shall, after the expiration of such six-months period, not be a legal newspaper qualified as a medium of official and legal publications. (Act Feb. 5, 1943, c. 13, §1.)

[331.17]

**10935-3. Application of act.**—The provisions of this act do not apply to any newspaper established subsequent to December 31, 1941. (Act Feb. 5, 1943, c. 13, §2.)

[331.17]

**10935-4. Publisher to file affidavit with County Auditor.**—When any newspaper has suspended publication, as provided in this act, the publisher shall, before resuming publication, file an affidavit with the County Auditor of the County in which said newspaper is published stating that the original suspension was due to the war emergency and that publication will now be resumed. (Act. Feb. 5, 1943, c. 13, §3.)

[331.17]

**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.

This section was repealed by Laws 1941, c. 492, §46, but was substantially reenacted in §11 of that act (Mason's St., §10933-12), and amendment by Laws 1941, c. 103, should be given effect. Op. Atty. Gen. (83r), May 19, 1942.

**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.) [645.06]

**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.)

## CHAPTER 108

### Express Repeal of Existing Laws

**10970. Session Laws of 1885.**

Laws 1885, c. 145, has been repealed, but is still applicable to all villages which continue to operate under it. Op. Atty. Gen., (234b), May 27, 1941.

**10971. Session laws of 1887.**

Special laws 1873, c. 111, §1, is repealed. State v. Chicago, M. St. P. & P. R. Co., 210M484, 299NW212.

**10972. Session laws of 1889.**

Special laws 1873, c. 111, §1, is repealed. State v. Chicago, M. St. P. & P. R. Co., 210M484, 299NW212.