

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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CHAPTER 28A-1

Telephone Companies

5290. Schedule of rates, etc.

No approval by railroad and warehouse commission is required of initial schedule of rates filed by a telephone company. *Tri-State Tel. & Tel. Co. v. Intercounty Tel. Co.*, 211M496, 1NW(2d)853. See Dun. Dig. 9583a.

5291. Commission to fix reasonable rates.

Section impliedly authorizes commission to sanction new rates proposed by a telephone company without formal notice of hearings and taking of testimony, if satisfied that rates are just and reasonable. *Lenihan v. T.*, 208M172, 293NW601. Cert. den. 311US711, 61SCR392. See Dun. Dig. 9583a.

Parties to pending rate litigation commission representing public, and defendant telephone company had right to compose and end controversy by superseding schedule of rates fixed by order sustained by supreme court by schedule of rates promulgated by subsequent order. *Id.*

Penalties paid by telephone subscribers were not part of "excess sums" required to be refunded by judgment of court requiring company to refund difference between amount charged under old rate and amount charged under new rate authorized by commission, and telephone company was not required to set off amount of excess charge under old rate against subsequently accruing bills so as to entitle subscribers to discounts for prompt payment thereof. *State v. Tri-State Tel. & Tel. Co.*, 209 M86, 295NW511. See Dun. Dig. 9583a.

Where initial rates filed are unreasonable, commission on its own motion or complaint may prescribe reasonable rates. *Tri-State Tel. & Tel. Co. v. Intercounty Tel. Co.*, 211M496, 1NW(2d)853. See Dun. Dig. 9583a.

5295. Connections between telephone companies not discontinued.

An order of commission for continuance of physical connection of lines of companies whose lines connect at different points, which directs routing of messages so that one company must turn over to other at first point of connection messages which it has received for transmission and for which it has facilities, in effect deprives such company of use of its property for its own business as to part of transmission which it can make over its own lines and gives that part of its business to company to which such transfer is ordered, and is to that extent confiscatory and unreasonable. *Tri-State Tel. & Tel. Co. v. Intercounty Tel. Co.*, 211M496, 1NW(2d)853. See Dun. Dig. 9583a.

Function of prescribing reasonable terms and conditions for continuance of physical connection is for commission. *Id.*

It is mandatory duty of commission to order continuance of physical connection where facts found show, or in absence of explicit finding, statutory presumption is, that public convenience will be promoted. *Id.*

Mere fact there was prior connection of lines of companies under contract gives rise to no rights with respect to continuance of such connections, nor does it operate as a dedication of telephone properties to joint use for which contract provided. *Id.*

There is a presumption that, where application is made therefor, public convenience will be promoted by physical connection of lines of telephone companies. *Id.*

5298. Commission given power to delegate authority to employees.

Lenihan v. T., 208M172, 293NW601; notes under §5291.

5299. Commission to grant authority for constructing telephone lines.

Mere fact there was prior connection of lines of companies under contract gives rise to no rights with respect to continuance of such connections, nor does it operate as a dedication of telephone properties to joint use for which contract provided. *Tri-State Tel. & Tel. Co. v. Intercounty Tel. Co.*, 211M496, 1NW(2d)853. See Dun. Dig. 9583a.

A telephone company is not required to obtain from commission a certificate of public convenience to authorize it to reroute messages by use of existing lines and equipment. *Id.*

5302. Municipalities given right to operate telephone exchanges.

Act is limited to a telephone exchange within borders of municipality. *Op. Atty. Gen.* (98a), June 10, 1940.

5307. Expense of furnishing transcribed copy of records.

Lenihan v. T., 208M172, 293NW601. Cert. den. 311US 711, 61SCR392. *Reh. den.* 61SCR448.

5308. Mode of procedure for appeals, etc.

Court may enter order which law compelled and with respect to which neither commission nor court had any discretion. *Tri-State Tel. & Tel. Co. v. Intercounty Tel. Co.*, 211M496, 1NW(2d)853. See Dun. Dig. 9583a.

Where railroad and warehouse commission was not guided by applicable rules of law in arriving at its decision, its decision is illegal. *Id.*

5311-2a. Same—Investigation fund—Appropriation.

Minnesota Telephone Rate Investigation Fund, abolished. *Act Apr. 28, 1941, c. 548, §43.*

5312. Town boards may construct; etc.

Statutes relating to town telephone lines do not apply to villages. *Op. Atty. Gen.* (98a), June 10, 1940.

5319. Town boards to manage.

Management of township telephone line is vested in town board, and where it is required to move line because of installation of high power line it may contract with a private telephone company for the use of the latter's poles and pay a pin rental therefore without having such contract approved by voters of the town. *Op. Atty. Gen.* (98a-3), Apr. 2, 1943.

Passage of a motion that township board will not make any contract in future without consent of the majority of the voters of township could not deprive supervisors of their power of management of telephone lines. *Op. Atty. Gen.* (98a-3), Nov. 26, 1943.

CHAPTER 28B

Department of Banking—Division of Banking in Department of Commerce

5323. Commissioner—Powers, authority, and privileges.—The commissioner of banks is vested with all the powers, authority, and privileges which, prior to the enactment of Laws 1909, Chapter 201, were conferred by law upon the public examiner, and he shall take over all duties in relation to state banks, savings banks, trust companies, building and loan associations, and other financial corporations within the state which, prior to the enactment of Chapter 201, were imposed upon the public examiner. The commissioner of banks shall exercise a constant supervision, either personally or through the examiners herein provided for, over the books and affairs of all state banks, savings banks, trust companies, building and loan associations, and other financial corporations doing business within the state; and shall, through examiners, visit at least twice each year such state banks,

savings banks, trust companies, building and loan associations, and other financial corporations, inspecting and verifying the assets and liabilities of each, and so far investigate the character and value of the assets of each such corporation as to ascertain with reasonable certainty that the values are correctly carried on its books; provided that from May 1, 1943, to June 30, 1945, inclusive, these visits shall be made at least once each year, notwithstanding any other provisions of law, but this provision shall not limit the commissioner in making additional visits as he deems necessary or advisable. He shall investigate the methods of operation and conduct of these corporations and their systems of accounting, to ascertain whether these methods and systems are in accordance with law and sound banking principles. He may examine, or cause to be examined by these examiners,