

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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9932. Imprisonment on two or more convictions.

When a person who is at liberty on a suspended sentence imposed for commission of a first felony commits a second felony, the sentence imposed for second felony cannot be served concurrently with the first sentence, and a person is under sentence for a felony after sentence has been imposed whether he is actually confined in prison or not, so long as sentence has not been fully executed or permanently suspended or a pardon has not been granted. Op. Atty. Gen. (341k-1), July 7, 1942.

Where a defendant has committed two offenses and has been tried on one of them, convicted and is sentenced thereon; then is put on trial for the other offense and is convicted and is sentenced thereon, the two sentences may be served concurrently. Op. Atty. Gen. (341k-1), July 7, 1942.

Where a man has committed two felonies in two counties respectively, both being committed before trial on either crime and before sentence was pronounced for either, and is tried in respective counties and convicted, sentences may be served concurrently though imposed in different district courts, though court has authority to order sentences served consecutively. Op. Atty. Gen. (341k-1), July 7, 1942.

Where one sentenced to reformatory was placed on probation and committed another felony and was sentenced to the reformatory, but judge at the time ordered that both sentences be served concurrently and revoked stay of sentence in first case, portion of sentence providing that it be served concurrently was void. Op. Atty. Gen. (341k-1), Sept. 31, 1942.

Sentences must be served consecutively when two pleas of guilty are received before sentence is pronounced on either crime. Op. Atty. Gen. (341k-1), Apr. 2, 1943.

Where prisoner was sentenced to serve term in St. Cloud Reformatory and was paroled and later was convicted of another crime and was sentenced to state prison, he should serve the reformatory term first and may be transferred to the reformatory for that purpose. Op. Atty. Gen. (341k), Apr. 19, 1943.

9936. Suspension of sentence.

Trial court has discretion to suspend sentence, and where there is no abuse of discretion, appellate court will not interfere with a sentence imposed in exercise of such discretion. State v. Soltau, 212M20, 2NW(2d)155. See Dun. Dig. 2487.

Upon affirmance of conviction for perjury, defendant was informed that, if so advised, he might renew his application for leniency in matter of suspended sentence. Id.

Power of justice of the peace to suspend a sentence must be exercised at time of imposition. There is no power to suspend on conviction for a third offense. Op. Atty. Gen. (266B-21), Nov. 6, 1941.

Municipal court of Chisholm may not refund a fine imposed in a criminal case after it has been paid to the clerk of the court. Op. Atty. Gen. (199B-7), Mar. 19, 1942.

9940. Restoration to civil rights.

A commutation of sentence to a term of 4½ months, with reservation of right to revoke commutation for misconduct, does not restore civil rights. Op. Atty. Gen. (68h), Sept. 13, 1940.

9941. Certification by proper officers.

When board of pardon grants releases through an unconditional commutation of sentence and so certifies, governor on receipt of certification may in his discretion restore such persons to civil rights, but then a prisoner is released through a commutation granted on condition the pardon board's jurisdiction is not completely terminated and governor has no power to restore civil rights before the final disposition of the sentence. Op. Atty. Gen. (68h), May 18, 1943.

9944. Restoration to civil rights, etc.

Section provides a method for restoration of civil rights in addition to that provided through governor. Op. Atty. Gen. (68h), May 18, 1943.

9945. Persons hereafter convicted.

Section provides a method for restoration of civil rights in addition to that provided through governor. Op. Atty. Gen. (68h), May 18, 1943.

CHAPTER 93A

Prevention and Control of Crime—Bureau of Criminal Apprehension

9950-6. Superintendent—Appointment, terms of office, removal, etc.

Apparently stolen property coming into hands of bureau of criminal apprehension and unclaimed should be turned over to sheriff of county where taken, to be disposed of as unidentified stolen property. Op. Atty. Gen., (985), Jan. 15, 1940.

It is improper for superintendent to give courtesy badges to personal friends. Op. Atty. Gen., (985h), Feb. 2, 1940.

9950-7. Employees of bureau; etc.

Judge of a municipal court, who has no clerk, is not required to report to superintendent of bureau of criminal apprehension, at least in all municipal courts organized since March 1, 1906. Op. Atty. Gen. (985F), Mar. 10, 1942.

9950-26. Abandoned or stolen property—Return to owner or sheriff.—That the Bureau of Criminal Apprehension shall make every effort for a period of one year after the seizure or recovery of abandoned or stolen property to return such property to the lawful owner or to the sheriff of the county from which it was stolen. (Act Apr. 23, 1941, c. 389, §1.)

[626.365]

9950-27. Same—Public sale—Notice.—Any such property held by such Bureau for more than one year, in case the owner cannot be found or if it cannot be determined from what county the property was stolen, shall be sold at public auction by the superintendent of the Bureau or his agent, after two weeks' published notice thereof in a legal newspaper in Ramsey County, stating the time and place of such sale and a list of the property to be sold. (Act Apr. 23, 1941, c. 389, §2.)

[626.365]

In view of federal law and regulations automobile tires cannot be sold at public auction, but may be disposed of under statute authorizing transfer of unused property from one state agency to another by commissioner of administration. Op. Atty. Gen. (985), Mar. 24, 1942.

9950-28. Same—Disposition of proceeds.—The proceeds of such sale shall be applied in payment of the necessary expenses of the sale and all necessary costs, storage, or charges incurred in relation to such property. The balance of the proceeds of such sales shall be paid into the general revenue fund. (Act Apr. 23, 1941, c. 389, §3.)

[626.365]

CHAPTER 94

Rights of Accused

9952. Presumption of innocence—Conviction of lowest degree, when.**1. Burden of proof on state.**

Violations of a city ordinance need not be proved beyond a reasonable doubt. State v. Jamieson, 211M262, 300 NW809. See Dun. Dig. 2449.

Not all the indicia of crime need be proved in all cases beyond a reasonable doubt, but conviction cannot be sustained without compliance with the reasonable doubt rule in respect to the corpus delicti and the criminal agency of the accused. State v. Kaster, 211M119, 300NW 897. See Dun. Dig. 2451, 2453.