

MINNESOTA STATUTES 1953 ANNOTATIONS

622.18 LARCENY

1620

A charge slip is evidence of a debt within the meaning of section 622.15. When stolen, prosecution should be under the provisions of section 622.15. The value of the goods as evidenced by such charge slip is deemed to be the value of the things stolen. OAG Feb. 2, 1949 (133-B-45).

622.18 RECEIVING STOLEN PROPERTY, AVERMENT AND PROOF

HISTORY. RS 1851 c 101 s 17-19; PS 1858 c 90 s 17-19; GS 1866 c 95 s 18-20; GS 1878 c 95 s 28-30; Penal Code s 435, 436; GS 1894 s 6730, 6731; RL 1905 s 5093; GS 1913 s 8886.

Larceny; principal convicted as receiver of stolen goods. 34 MLR 255.

622.20 RESTORATION OF STOLEN PROPERTY; DUTY OF OFFICERS

HISTORY. RS 1851 c 101 s 20; 1852 Amend p 23 s 112; PS 1858 c 90 s 20; GS 1866 c 95 s 21; 1867 c 86 s 1; GS 1878 c 95 s 31; GS 1894 s 6872; RL 1905 s 5095; GS 1913 s 8888.

622.22 STEALING OR PRINTING TRANSPORTATION TICKET, COUPON, OR PASS

HISTORY. GS 1866 c 95 s 16, 17; GS 1878 c 95 s 26, 27; 1893 c 66 s 8; GS 1894 s 2792; RL 1905 s 5186; GS 1913 s 9020.

CHAPTER 623

UNLAWFUL BUSINESS PRACTICES

623.01 TRUSTS AND COMBINATIONS IN RESTRAINT OF TRADE

Monopolies; royalties in compulsory licensing of patents. 32 MLR 309.

Violation of a criminal statute designed to protect against intentional harm; civil remedy where not expressly provided by statute or common law. 32 MLR 531.

Japanese anti-trust legislation. 32 MLR 588.

Economical consideration in the enforcement of the federal anti-trust laws. 34 MLR 210.

Restraint of trade as applicable to labor or other organizations. Application of the Clayton and Sherman Act to an association of real estate brokers. 34 MLR 364.

Anti-trust laws in case of national emergency. 36 MLR 490.

Principal and agent as joint tortfeasors; liability of an agent for collusion of third party sellers. 37 MLR 401.

Although equity will not enjoin a criminal act, it does have jurisdiction to enjoin an act which actually injures or threatens to injure property or rights of a pecuniary nature, and such jurisdiction is not destroyed by the fact that the act is accompanied by or is itself a violation of the criminal law. *Miller v Minneapolis Underwriters Assn.*, 226 M 367, 33 NW(2d) 49.

An action to adjudge a vacation or annulment of a corporate charter is a civil remedy employed by or in behalf of the state to cancel or recall a franchise privilege which the domestic corporation proceeded against has abused; and an action for the cancelation of a corporate charter is so distinctly a civil proceeding that, in the absence of a statutory requirement to the contrary, a criminal conviction for the violation of the anti-trust statute is neither a condition precedent to the commencement of the action nor to a judgment of forfeiture. *Miller v Minneapolis Underwriters Assn.*, 226 M 367, 33 NW(2d) 49.

MINNESOTA STATUTES 1953 ANNOTATIONS

1621

UNLAWFUL BUSINESS PRACTICES 623.24

A complaint alleging that defendants, competitors and labor unions, entered into a conspiracy to limit hours and operation of plaintiff's retail store, stated a cause of action. *Red Owl v Amalgamated Meat Cutters*, 109 F Supp 629.

There is no violation of section 623.01 if a fair trade contract for sale or re-sale of a commodity bearing a trade-mark, brand, or name of a purchaser or distributor conforms to the provisions of section 325.08. OAG Aug. 6, 1948 (417-E).

The contract between a wholesaler and a retailer providing that the retailer must not sell a certain branded article at retail for less than the wholesale price, plus 55 cents, does not offend against the provisions of section 623.01, and the contract is protected by the provisions of section 325.08. OAG Aug. 6, 1948 (417-E).

An individual or corporation in operating a public utility does not hold itself out to the public as offering to do business with all persons who may choose to do business with it. A corporation manufacturing, distributing, and servicing business machines on which it holds patents may, if it chooses, refuse to sell repair parts to independent service repairmen. OAG Dec. 30, 1948 (417-E).

623.02 DOMESTIC CORPORATIONS TO FORFEIT FRANCHISES, FOREIGN CORPORATIONS

Although equity will not enjoin a criminal act, it does have jurisdiction to enjoin an act which actually injures or threatens to injure property or rights of a pecuniary nature, and such jurisdiction is not destroyed by the fact that the act is accompanied by or is itself a violation of the criminal law. *Miller v Minneapolis Underwriters Assn.*, 226 M 367, 33 NW(2d) 49.

If a domestic corporation is indicted and convicted for a violation of a statute prohibiting trusts and combinations in restraint of trade, such conviction may be made the basis for charter forfeiture proceedings under a statute dealing with forfeiture of franchises of domestic corporations, but a criminal conviction is neither a condition precedent to commencement of forfeiture action or a judgment of forfeiture. *Miller v Minneapolis Underwriters Assn.*, 226 M 367, 33 NW(2d) 49.

An action to adjudge a vacation or annulment of a corporate charter is a civil remedy employed by or in behalf of the state to cancel or recall a franchise privilege which the domestic corporation proceeded against has abused; and an action for the cancelation of a corporate charter is so distinctly a civil proceeding that, in the absence of a statutory requirement to the contrary, a criminal conviction for the violation of the anti-trust statute is neither a condition precedent to the commencement of the action nor to a judgment of forfeiture. *Miller v Minneapolis Underwriters Assn.*, 226 M 367, 33 NW(2d) 49.

623.08 PETROLEUM, DISCRIMINATION BETWEEN LOCALITIES

An individual or corporation in operating a public utility does not hold itself out to the public as offering to do business with all persons who may choose to do business with it. A corporation manufacturing, distributing, and servicing business machines on which it holds patents may, if it chooses, refuse to sell repair parts to independent service repairmen. OAG Dec. 30, 1948 (417-E).

623.19 MONOPOLIZATION OF FOOD PRODUCTS

Economical considerations in the enforcement of the federal anti-trust laws. 34 MLR 210.

Anti-trust laws in case of a national emergency. 36 MLR 490.

Anti-trust and the new economics. 37 MLR 505.

Legal meaning of monopoly. 37 MLR 539.

623.24 DUTY OF COMMISSION MERCHANTS AND BROKERS

In an action by a real estate broker to recover a commission based on an agreement with the seller, the broker need show only that he was the efficient cause of

bringing together the seller and a prospective purchaser ready, willing, and able to purchase on the terms stipulated in the agreement between the seller and the broker. A seller cannot relieve himself of the liability to pay this commission by offering to sell on terms more favorable to the prospective purchaser, thereby obviating any necessity for discussing the terms stipulated. Evidence of seller's conduct in the instant case showed that he did not consider the contract between himself and the broker terminated. *Dahlgren v Olson*, 228 M 379, 37 NW(2d) 438.

623.25 GIFT ENTERPRISES, MERCHANDISE PREMIUMS

A number of merchants in a community buy from a promoter a quantity of what is called "auction money." This money is distributed by the merchants to customers in proportion to what they buy. Once every week for eight weeks, on a night certain, a bicycle is auctioned off to the person in a theater who will bid the most auction money for the bicycle. Admission to the theater is by tickets purchased at the box office. The bicycle is provided by the promoter. This scheme is not a lottery but it is an unlawful gift enterprise. OAG March 9, 1950 (510-B-5).

An advertising scheme is not a lottery where each person entering a place of business receives a ticket without charge, keeps the ticket and places the stub in a barrel, and he may win a prize other than food, liquor, or cash upon the drawing from the barrel. OAG April 22, 1948 (519-B-9).

It is not a lottery for owner of store to give away a prize to the holder of the winning tickets where no consideration is paid for the ticket. OAG April 22, 1948 (510-B-9).

As the plan proposed is merely a trade stimulator and no consideration is paid for the chance, and the proposed scheme is not a "gift enterprise" as defined in section 623.25 or "gambling" within the meaning of the anti-lottery statutes, and the scheme is for the purpose of destroying competition as prohibited by section 325.04, the operation of the proposed plan does not constitute a violation of any state law. OAG Feb. 15, 1949 (510-B-9).

A scheme whereby the promoter gives five tickets to anyone calling at his place of business and a prize is awarded to the holder of the lucky number is not a lottery if the tickets are distributed free to everyone, provided that the act is not unlawful as a gift enterprise and further provided that the scheme is not an advertisement for the purpose of effecting an injury upon a competitor or destroying competition. OAG Aug. 14, 1950 (510-B-9).

The game of "Spin-O" is not a lottery. It is not an unlawful gift enterprise. Whether it is unfair competition under section 325.04 is a question of fact. OAG Feb. 21, 1951 (510-B-9).

Where individual merchants donate items of merchandise to operators of a ball park and each person who purchases a ticket for entrance to a ball game receives a stub with a number, and winners at the drawing receive the merchandise, such arrangement constitutes a lottery. OAG Aug. 10, 1953 (510-C-5).

CRIMINAL PROCEDURE**CHAPTER 625****PREVENTION OF CRIME****625.01 CONSERVATORS OF THE PEACE**

"Conviction" means the establishment or ascertainment of guilt prior to and independently of judgment or sentence, and includes a plea of guilty as well as finding of guilt by a jury. In its technical, legal sense it means the final consummation of