PART VI

STATUTES, THEIR INTERPRETATION; EXPRESS REPEALS

CHAPTER 645

INTERPRETATION OF STATUTES

GENERAL PROVISIONS

645.01 WORDS AND PHRASES

Effective date of statutes when approved after expressed date. 32 MLR 207.

Importance of legislative precedent in development of American law. 33 MLR 103.

Laws 1951, Chapter 706, providing for an election in the reorganization of a school district and which did not provide a time at which it was to take effect, takes effect as of the day following its enactment. State ex rel v Common School District No. 65, 237 M 150, 54 NW(2d) 130.

"Passage" as used in section 541.071 means approval by signature of the governor and hence the act took effect at 12:01, the day following the governor's approval. Smith v Cudahy Packing Co., 76 F. Supp. 575.

645.03 1945 SESSION LAWS NOT AFFECTED

NOTE: The act adopting the Minnesota Revised Statutes, approved March 8, 1945, and filed with the secretary of state on March 9, 1945, reads:

"BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. Subdivision 1. The compilation and revision of the general statutes of the state of Minnesota of a general and permanent nature, prepared by the revisor of statutes under the provisions of Laws 1943, Chapter 545, and filed in the office of the secretary of state on December 28, 1944, is hereby adopted and enacted as the 'Minnesota Revised Statutes.'

Subdivision 2. The 'Minnesota Revised Statutes' shall not be cited, enumerated, or otherwise treated as a session law.

Section 2. Acts passed at the 1945 biennial session of the legislature are not repealed or modified by the adoption of the 'Minnesota Revised Statutes.'

Section 3. The laws contained and compiled in 'Minnesota Revised Statutes' are to be construed as continuations of the acts from which compiled and derived and not as new enactments."

A revision of an existing statute is presumed not to change its meaning, even if there be alterations in the phraseology, unless such intention to change the law clearly appears from the language of the revised statute. In reenacting a statute, intention to change the meaning may as clearly appear from the omission of old as by adding new language. Enactment of statutes lies wholly within the legislative field, and what the legislature has authority to enact it has like authority to amend or even repeal. When in 1945 the legislature adopted and enacted the compilation and revision of the general statutes of this state as the "Minnesota Revised Statutes," it thereby recognized and declared the same to be an official compilation, re-

vision, and code. As such, the language chosen and used in the revised statutes must be given effect as the latest expression of the legislative will. Where the statutory language is clear and unambiguous, there is no room for construction or interpretation. State ex rel v Washburn, 224 M 269, 28 NW (2d) 652.

645.05 CONTINUATION OF FORMER LAWS

HISTORY. GS 1866 c 121 s 9; GS 1878 c 121 s 9; GS 1894 s 7520; RL 1905 s 5508; GS 1913 s 9402; 1941 c 492 s 5.

645.06 PUBLISHED LAWS AS EVIDENCE

HISTORY. 1905 c 185 s 5; GS 1913 s 9406; 1923 c 95 s 5-10; 1929 c 6; 1933 c 254; 1935 c 24; 1937 c 24; 1939 c 4; 1941 c 492 s 6.

CONSTRUCTION OF WORDS AND PHRASES

645.08 CANONS OF CONSTRUCTION

Effect of liberal interpretation of statutory language regarding limitation of actions. 37 MLR 301.

Where the language of a statute or of a constitutional provision is clear and unambiguous, there is no room for construction or interpretation. State ex rel v Washburn, 224 M 269, 28 NW(2d) 652; Kernan v Holm, 227 M 89, 34 NW(2d) 327.

The language of a statute will be construed in harmony with the ordinary rules of grammar, unless such construction clearly violates the legislative intent. Governmental Bureau v Borgen, 224 M 313, 28 NW(2d) 760.

Rules of statutory construction are the servants, not the masters of the court. Their purpose is to save and not to destroy. Kaufman v Swift County, 225 M 169, 31 NW(2d) 34.

In construing a plat the same legal principles apply whether the dedication of a road thereunder is to the use of the public or to the use of a more restricted group of beneficiaries. The word "person" includes persons. The plat must be considered as a whole and no part thereof is to be ignored as meaningless. All ambiguities are to be resolved against the dedicator and to the reasonable advantage of the grantees of the dedicated use. Bryant v Gustafson, 229 M 1, 40 NW(2d) 429.

Under a statute expressly authorizing a dedication to any "person" or corporation other than public as a whole, dedication to any number of persons is authorized since the word "person" includes the plural. Bryant v Gustafson, 230 M 1, 40 NW(2d) 427.

In ascertaining the meaning in MSA, Section 256.26, Subdivision 3, 6, and 8, of such legal terms as "lien" and "joint tenancy interests" and the application therein of such legal doctrines as those relative to subjecting real property to liens and the duration, priority, and enforcement thereof, resort may be had to well-settled rules of statutory construction, such as those that the legislature is deemed to use words with their well-settled meaning, that statutes are to be construed with reference to the common law relative to the same subject matter, and that the contemporaneous legislative history may be considered. Application of Gau, 230 M 235, 41 NW(2d) 444.

Unless to do so involves a construction inconsistent with manifest legislative intent, words and phrases of a statute are construed according to rules of grammar and according to their common approved usage. Welscher v Myhre, 231 M 33, 42 NW(2d) 311.

Statutory words and phrases are to be construed according to rules of grammar and according to their common and approved usage unless to do so would be inconsistent with the manifest intent of the legislature. Kugling v Williamson, 231 M 135, 42 NW(2d) 534.

Information alleging defendant's commission of the crime of indecent exposure in violation of section 617.23 and his prior conviction under a municipal ordinance for a similar offense previously committed, does not charge a gross misdemeanor under the statute since a conviction under the municipal ordinance is not a conviction under the state law. State v End, 232 M 266, 45 NW(2d) 378.

Where two or more words are grouped together and ordinarily have a similar meaning, but are not equally comprehensive, the general word is limited and qualified by the special word. State v Suess, 236 M 174, 52 NW(2d) 409.

Words and phrases of a statute and an ordinance are to be construed according to their common and approved usage, unless by so doing a construction results which is inconsistent with manifest legislative intent or repugnant to context. An ordinance providing that no materials may be admitted on top of an elevator was designed to protect from the hazards of falling objects persons below and persons riding inside the elevator, or adjoining elevator, and hence the mover who fell in attempting to load a bookcase on the top of defendant's elevator was not protected by the ordinance. Standafer v First Nat'l Bank of Minneapolis, 236 M 123, 52 NW(2d) 719.

The provisions of 49 USC 174 authorize the President to set apart certain areas as air space reservation and the words "or other governmental purposes" immediately following the words "for national defense" are not limited in their application, and include the purpose of establishing a forest reserve and the conservation of timber and water flowage within its boundaries. The rule of ejusdem generis is not one of substantive law but of construction and must be applied cautiously and without avoiding a construction at variance with the entire writing. United States v Perko, 108 F. Supp. 315.

In construing Laws 1947, Chapter 421, as amended by Laws 1949, Chapter 666, as it refers to the rural districts in the use of the words "school district," the legislature intended to include "school districts." This is consistent with the manifest intent of the legislature and is not repugnant to sections 645.08 and 645.16. OAG Nov. 10, 1949 (166-E-4).

645.11 PUBLISHED NOTICE

HISTORY. RS 1851 c 2 s 1; 1852 Amend p 5 s 1; RS 1851 c 82 s 42; PS 1858 c 3 s 2; PS 1858 c 72 s 42; 1860 c 23 s 1; GS 1866 c 4 s 1; GS 1866 c 66 s 68; GS 1878 c 4 s 1; GS 1878 c 66 s 82; GS 1878 c 124 s 1; GS 1894 s 255, 5222, 7987; 1889 c 6 s 1; 1891 c 122 s 1; 1893 c 89; 1895 c 352; 1899 c 86; 1899 c 165; RL 1905 s 5514; 1907 c 254; GS 1913 s 9412; 1917 c 233; 1921 c 15; 1921 c 171; 1921 c 484 s 5; 1941 c 103; 1941 c 492 s 11.

Published notice once each week for a specified number of weeks must be consecutive weeks. OAG April 5, 1948 (277-A-11).

In a mortgage foreclosure sale notice relating to realty lying in more than one county, publication is required only in the county where a part of the realty lies and where the sale is to take place. OAG June 26, 1951 (301-C-1).

A newspaper published on Sunday is not a legal newspaper for the publication of legal notices. OAG Nov. 12, 1947 (314-B-18).

645.12 POSTED NOTICE

HISTORY. RS 1851 c 2 s 1; 1852 Amend p 5 s 1; RS 1851 c 82 s 42; PS 1858 c 3 s 2; PS 1858 c 72 s 42; 1860 c 23 s 1; GS 1866 c 4 s 1; GS 1866 c 66 s 68; GS 1878 s 4 s 1; GS 1878 c 66 s 82; GS 1878 c 124 s 1; GS 1894 s 255, 5522, 7987; 1889 c 96 s 1; 1891 c 122 s 1; 1895 c 352; 1899 c 86; 1899 c 165; RL 1905 s 5514; 1907 c 254; GS 1913 s 9412; 1917 c 233; 1921 c 15; 1921 c 171; 1941 c 492 s 12.

645.13 TIME; PUBLICATION FOR SUCCESSIVE WEEKS

Publication of proposed amendments to charter of a city of fourth class operating under a home rule charter must conform to the amendment to the Constitution,

Article 4, Section 36, proposed by Laws 941, Chapter 55, and adopted November 3, 1942. OAG Aug. 13, 1948 (58-M).

Proposed charter amendments, under section 410.12, require four full weeks of public notice. OAG Nov. 8, 1951 (58-M).

645.15 COMPUTATION OF TIME

HISTORY. RS 1851 c 2 s 1; 1852 Amend p 5 s 1; RS 1851 c 82 s 42; PS 1858 c 3 s 2; PS 1858 c 72 s 42; 1860 c 23 s 1; GS 1866 c 4 s 1; GS 1866 c 66 s 68; GS 1878 c 4 s 1; GS 1878 c 66 s 82; GS 1878 c 124 s 1; GS 1894 s 255, 5222, 7987; 1889 c 96 s 1; 1891 c 122 s 1; 1895 c 352; 1899 c 86; 1899 c 165; RL 1905 s 5514; 1907 c 254; GS 1913 s 9412; 1917 c 233; 1921 c 15; 1921 c 171; 1941 c 492 s 15.

Where the language of an act is ambiguous, the court will determine the legislative or congressional intent, viewing the act in its entirety, both in the light of the positive ends it was designed to accomplish and of the mischief it was designed to prevent, and will be aided in that determination by the legislative history of the act. Stevens v Federal Cartridge Corp., 226 M 148, 32 NW(2d) 312.

A declaratory or expository statute is one which has been enacted in order to put an end to a doubt as to what is the common law, or the meaning of another statute, and which declares what it is and ever has been. Nelson v Sandkamp, 227 M 177, 34 NW(2d) 640.

Where the common law prevails and under the provisions of section 645.15 the rule for the computation of time is to exclude the first and include the last day; but for over 200 years the law recognizes a remarkable exception to such rule to the effect that in computing a person's age the day upon which the person was born, even though he was born on the last moment thereof, is included and he therefore reaches his next year in age at the first moment of the day prior to the anniversary date of his birth. Nelson v Sandkamp, 227 M 177, 34 NW(2d) 640.

A notice posted on June 28th for a meeting to be held July 7th does not give a legal 10-day's notice, and no business could be legally transacted at the meeting. OAG July 12, 1950 (161-A-50).

A Chippewa Indian attains his majority on the day preceding the anniversary of his birth. OAG Sept. 17, 1948 (240-H).

CONSTRUCTION OF LAWS

645.16 LEGISLATIVE INTENT CONTROLS

Federal courts; weight to be given administrative construction of state statutes. 36 MLR 100.

The futility of attempting to determine what was in the minds of the legislators by means of "legislative history" has been criticized.

The successive stages of the bill, the deletion here, the striking out there, the failure to strike out somewhere else, proves precisely that the bill had several stages, that some things were stricken out and other things were not, and nothing else. So far as legislation is a human activity, they are instructive data for social psychology but they tell us nothing about what we are to do in order to carry out purposes of the statute. We must treat the final result, the statute, as a sort of accord and satisfaction, summing up and superseding a vast deal of negotiating hither and yon, rendering it not only superfluous but improper to go back to the data.

The common law developed the rule that the debates in parliament were not merely inconclusive about the intention of a statute, but were incompetent. So far as legislative history is concerned, an examination in detail finds that in most instances it adds up to zero. We borrowed this approach to the interpretation of the statutes from Continental Europe. 33 Calif. LR 219, 222-225.

The act adopting the Minnesota Revised Statutes, approved March 8, 1945, and filed with the secretary of state March 9, 1945, reads as follows: (1) A revision of an existing statute is presumed not to change its meaning, even if there be alterations in the phraseology, unless such intention to change the law clearly appears from the language of the revised statute; (2) in reenacting a statute, however, intention to change the meaning may as clearly appear from the omission of old as by adding new language; (3) enactment of statutes lies wholly within the legislative field, and what the legislature has authority to enact it has like authority to amend or even repeal; (4) when in 1945 the legislature adopted and enacted the compilation and revision of the general statutes of this state as the "Minnesota Revised Statutes," it thereby recognized and declared the same to be an official compilation, revision, and code; as such, the language chosen and used in the revised statutes must be given effect as the latest expression of the legislative will; (5) where the statutory language is clear and unambiguous, there is no room for construction or interpretation. State ex rel v Washburn, 224 M 269, 28 NW (2d) 652.

A liberal construction is accorded to statutes regarded as humanitarian or grounded on humane public policy, and disqualifying provisions of such statutes must be narrowly construed. Nordling v Fort Motor Co., 231 M 68, 42 NW(2d) 516.

Policy as well as the letter of the statute or ordinance should be harmonized and reconciled so as, if possible, to give effect to the policy and purpose of the enactment. Lowry v City of Mankato, 231 M 108, 42 NW(2d) 553.

Statutory words and phrases are to be construed according to rules of grammar and according to their common and approved usage unless to do so would be inconsistent with the manifest intent of the legislature. Kugling v Williamson, 231 M 135, 42 NW(2d) 534.

Courts may only apply the law as the legislature has enacted it. State ex rel v Washburn, 224 M 269, 28 NW(2d) 652.

Where statutory language is unambiguous, there is no room for construction or interpretation. State ex rel v Washburn, 224 M 269, 28 NW(2d) 652.

Supreme court should be consistent in its construction of state's laws and should establish stable interpretation, particularly as to legislative intent. Swanson v J. L. Shiely Co., 234 M 548, 48 NW(2d) 848.

The fundamental aim of construction of a statute is to ascertain and give effect to the legislative intent. Hennepin County v City of Hopkins, ... M ....., 58 NW(2d) 851.

The cardinal principle of all statutory interpretation is to ascertain and give effect to legislative intent. Bricelyn School District v County Commissioners, ... M ....., 55 NW(2d) 597.

In construing and applying statutes, court's function, guided by ordinary rules of construction, is to determine, if possible, what the legislative intent was and to give effect to it. Nordling v Ford Motor Co., 231 M 68, 42 NW(2d) 576.

The fundamental aim of construction of a statute is to ascertain and give effect to intention of legislature, and in determining legislative intent courts will consider legislative history of act involved, subject matter as a whole, purpose of legislation, and objects intended to be secured thereby. Huffman v School Board of Ind. Consol. School Dist. No. 11, Hennepin County, 230 M 289, 41 NW(2d) 455.

The object of all interpretation of statutes is to ascertain and effectuate the intention of the legislature. Gale v Commissioner of Taxation, 228 M 345, 37 NW(2d) 711; Kalin v Oliver Iron Mining Co., 228 M 328, 37 NW(2d) 365; State ex rel v Fitzsimmons, 226 M 557, 33 NW(2d) 854.

Courts must construe statutory enactments so as to give effect to obvious legislative intent. Stevens v Federal Cartridge Corp., 226 M 148, 32 NW(2d) 312; 229 M 597, 38 NW(2d) 154.

In ascertaining legislative intent, a court must look to the substance of a statute rather than to the label. State ex rel v Brandt, 225 M 345, 31 NW(2d) 5.

Courts must interpret laws as they are, and neither their wisdom nor accuracy to accomplish desired purpose may be taken into consideration. Norris Grain Co. v Nordaas, 232 M 91, 46 NW(2d) 94.

When words of a law are not explicit, intention of legislature may be ascertained by considering among other things, mischief to be remedied, objects to be attained, and consequences of the particular interpretation. Chapman v Davis, 233 M 62, 45 NW(2d) 822.

Where statute specifically prohibits and penalizes a certain act by members of one class, for protection of members of another class, a statutory construction which attributes to legislature an intent to bring about a consequence that is inconsistent with the protective purpose should not be adopted. In re Peterson's Estate, 230 M 478, 42 NW(2d) 59.

Where language of statute is not explicit and admits of construction, the courts in determining legislative intent will consider occasion and necessity for the law, mischief to be remedied, object to be obtained, and consequences of a particular interpretation. In re Peterson's Estate, 230 M 478, 42 NW(2d) 59.

Legislative intent may not be defeated by reason of the fact that the fulfillment of that intent creates an inequitable situation. County of Hennepin v County of Houston, 229 M 418, 39 NW(2d) 858.

A statutory definition cannot be enlarged by usage or custom, but, where definition is not clear as to scope and meaning of its terms, it is proper to examine the subject matter, circumstances under which legislation was enacted, object to be attained, and consequences of a particular interpretation. The legislature never intends a result that is absurd or unreasonable. State v Dalrymple, 227 M 533, 35 NW(2d) 714.

Where meaning of the statute is not clear and if interpretation becomes proper, such interpretation must be made in the light of the history and purpose of the statute. Homewood Theatre v Loew's Inc., 101 F Supp 76.

The legislative history of act, the subject matter as a whole, the purpose of the legislation, and the objects to be secured thereby may be considered in determining the legislative intent. County of Hennepin v City of Hopkins, ... M ....., 58 NW(2d) 851.

In construing constitutionality of a legislative act, intent of legislature must be ascertained from language of entire act read in light of object evidently in view. Hassler v Engberg, 233 M 487, 48 NW(2d) 343.

It is not function of courts to construe laws in time of emergency to effectuate purpose not intended by law makers. Norris Grain Co. v Nordaas, 232 M 91, 46 NW(2d) 94.

All reasonable doubt should be resolved in favor of the accused unless the language creating the offense is plain, and it is not enough that the case be within the apparent reason and policy of the penal statute. State v End, 232 M 266, 45 NW(2d) 378.

The application of a statute is to be determined in the light of the statutory purpose as a whole. Dahlberg v Young, 231 M 60, 42 NW(2d) 570.

Courts will construe statutes in the light of their subject matter, history and purpose. Aberle v Faribault Fire Department, 230 M 353, 41 NW(2d) 813.

In construing statutes the supreme court will endeavor to discover and effectuate legislative intent and will consider contemporaneous legislative history, legislative and administrative interpretations of the statute; the mischief to be remedied and the objects sought to be accomplished, other statutes relating to the same subject matter, and the desirability of avoiding an absurd result if that can be done without doing violence to the language of the statute. Stabs v City of Tower, 229 M 552, 40 NW(2d) 362; Wheeler v Seaboard Surety Co., 218 M 443, 16 NW(2d) 519; Governmental Research Bureau v Borgen, 224 M 313, 28 NW(2d) 760; County of Hennepin v County of Houston, 229 M 418, 39 NW(2d) 858; State ex rel v Fitzsim-

mons, 226 M 557, 33 NW(2d) 854; Foley v Whelan, 219 M 209, 17 NW(2d) 367; State v Industrial Tool Works, 220 M 591, 21 NW(2d) 31; Huffman v School Board, 230 M 289, 41 NW(2d) 362.

The supreme court must take language of Constitution, Article IV, Section 24, fixing terms and times for election of state senators, as voicing its purpose, regardless of purpose of legislature which proposed amendment. Kernan v Holm, 227 M 1, 34 NW(2d) 327.

Where the words of a statute are not explicit, the purpose or object to be attained may be considered in ascertaining the intended meaning. The court looks to the substance of a statute rather than to the label. State ex rel v Brandt, 225 M 345, 31 NW(2d) 5.

In re-enacting a statute, intention to change meaning may as clearly appear from omission of old as by adding new language. Sterling Electric Co. v Kent, 233 M 31, 45 NW(2d) 709; Welscher v Myhre, 231 M 33, 42 NW(2d) 311.

A literal interpretation cannot be applied to a word of statute when such interpretation is inconsistent with purpose of statute and meaning and scope of words with which it is found. Homewood Theatre v Loew's Inc., 101 F Supp 76.

Where there is no uncertainty or ambiguity in its language, a statute is to be enforced literally as it reads if its language involves no absurdity or contradiction. State v Carroll, 225 M 384, 31 NW(2d) 44.

The intent of the legislature is not to be defeated by placing a narrow or technical construction upon words if the context and the purpose of the statute as a whole indicate they were used in a popular sense with a broader meaning; and where the words are not explicit, the object of the statute, the mischief to be remedied, and the consequences of a particular interpretation may be considered in ascertaining legislative intent. Governmental Bureau v Borgen, 224 M 313, 28 NW(2d) 760.

The nonresident automobile owner statute, section 170.55, is free from all ambiguity and must be literally construed. Wittman v Hanson, 100 F Supp 747.

Where the meaning of a revised statute is free from ambiguity, prior law cannot be resorted to for the purpose of creating ambiguity. A change in a prior law by a revision of the statutes, when clear and unambiguous, must be given full effect. Sterling Electric Co. v Kent, 233 M 31, 45 NW(2d) 709.

Where the language of an act is ambiguous, the court will determine the legislative intent by viewing the act in its entirety, both in light of positive ends it was designed to accomplish and of the mischief it was designed to prevent; and will be aided in that determination by its legislative history. Stevens v Federal Cartridge Co., 226 M 148, 32 NW(2d) 312.

A statute should be construed to give effect to all its provisions. The provision that counties or subdivisions are "relieved from responsibilities and duties" relating to the construction and maintenance of trunk highways through counties and other political subdivisions of the state pertains to responsibilities of political subdivisions for maintenance of such streets and not to responsibilities for exercising a sound discretion in the adoption of a plan of improvement. Paul v Faricy, 228 M 264, 37 NW(2d) 427.

Where the legislative intent is not clear the meaning of doubtful words may be determined by reference to their association with other words and phrases. State v Suess, ... M ....., 58 NW(2d) 409.

While the title of an act is not of decisive significance and may not be used to vary the plain import of a statute's explicit language within the scope of the title, the title may be considered in determining legislative intent. Hennepin County v City of Hopkins, ... M ....., 58 NW(2d) 851; La Bere v Palmer, 232 M 203, 44 NW(2d) 827; State ex rel v Brandt, 225 M 345, 31 NW(2d) 5.

The title of an act is properly to be considered in determining legislative intent. Cleveland v Rice County, ... M ....., 56 NW(2d) 641.

In ascertaining legislative intent, courts are well advised to consider a preamble to the pertinent statute. Courts should accept an act of the legislature as final and

discourage attacks upon it except where necessary to protect the private interests of the individual who is asserting invalidity and who is peculiarly and particularly affected by the act. Ottertail Power Co. v Village of Elbow Lake, 234 M 419, 49 NW(2d) 197; Bricelyn School District v Board, ... M ....., 55 NW(2d) 597.

Where legislative intent is not revealed by the statutory language, the objective footprints on the trail of the legislative enactment will be examined. In determining legislative intent, the occasion and necessity for the statute, the circumstances under which it was enacted, and the mischief to be remedied and the object to be attained may be considered. County of Hennepin v County of Houston, 229 M 418, 39 NW(2d) 858.

Long acquiescence in the practical construction placed upon a statute by an administrative official is entitled to great weight in the construction thereof. City of St. Paul v Hall, ... M ....., 58 NW(2d) 761.

The rulings of the attorney general, when they have been acted upon and gone unchallenged for many years, have much persuasive weight in statutory construction. Adoption of Anderson, 235 M 192, 50 NW(2d) 278; Ottertail Power Co. v Village of Elbow Lake, 234 M 419, 49 NW(2d) 197.

When the words of a law are not explicit, the legislative history of the law may be considered in ascertaining the legislative intent. Gale v Commissioner of Taxation, 228 M 345, 37 NW(2d) 711.

When a statute is not explicit but requires construction, a stricter interpretation is required to establish a legislative intent to fix a liability in derogation of a sovereign immunity than where the liability is imposed only with respect to a proprietary act. Hahn v City of Ortonville, ... M ....., 57 NW(2d) 254.

The use of the words "may" and "shall" is not decisive of whether statutory provisions are directory or mandatory. State v Jones, 234 438, 48 NW(2d) 662.

If the language of the revised statutes is plain and free from doubt, the will of the lawmakers must be ascertained therefrom, unaided by prior statutes on the subject; but if the revised statutes are of doubtful meaning or import, or susceptible of two constructions, the prior statutes of which the new is the revision, may be resorted to for the purpose of rendering the meaning clear. Welscher v Myhre, 231 M 33, 42 NW(2d) 311.

Every law should be construed, if possible, to give effect to all of its provisions. The remedial nature of legislation does not justify construction which gives to a statute an application not intended by the legislature. Kalin v Oliver Iron Mining Co., 228 M 328, 37 NW(2d) 365.

The obligation of a citizen to pay taxes is purely a statutory creation and taxes can be levied, assessed, and collected only in the method pointed out by express statute. Teichert v County of Chippewa, 225 M 406, 31 NW(2d) 11.

Statutes imposing taxes and providing means for the collection of same should be construed strictly insofar as they may operate to deprive the citizen of his property by summary proceedings or to impose penalties or forfeitures upon him; but otherwise tax laws ought to be given a reasonable construction, without bias or prejudice against either the taxpayer or the state, in order to carry out the intention of the legislature and further the important public interests which such statutes observe. Governmental Bureau v Borgen, 224 M 313, 28 NW(2d) 760.

If language is unambiguous and clearly expressive of a definite meaning or intent, there is no room for construction, and the meaning or intent so expressed must govern; a clearly expressed intent is derived from the natural import of language in conveying a certain and specific meaning to the obvious exclusion of other meanings. Governmental Research v Borgen, 224 M 313, 28 NW(2d) 760.

Where a law is susceptible of more than one meaning, the court will not adopt an interpretation defeating its purpose and the consequence of which is to establish a tax limitation not in accord with recognized current needs. The intent of the legislature is not to be defeated by placing a narrow or technical construction upon words

if the context and the purpose of the statute as a whole indicate that they were used in a popular sense with a broader meaning. Governmental Bureau v Borgen, 224 M 314, 28 NW(2d) 760.

The condition which must be met by a county to entitle it to payment from the appropriation to the state board of health are clear and unambiguous and the state board cannot modify them in any way. OAG June 25, 1947.

The intent of the legislature in making an appropriation under Laws 1947, Chapter 599, Section 7, Clause (7), may be determined by considering the language used in the budgeted request of the department of education for the appropriation. OAG Oct. 2, 1947 (9-A-13).

The applicant applied for a marriage license within three months of the date of her divorce but after the divorce decree the husband died. The death of the husband takes away the reason for the six months limitation and the license applied for should be granted. OAG June 1, 1951 (300-M).

The "Alley Plan" for the election of justices of the supreme court and district judges is applicable even if only one justice or one district judge is to be elected. OAG May 29, 1952 (28-B-7).

645.17 PRESUMPTIONS IN ASCERTAINING LEGISLATIVE INTENT

A presumption will not be indulged to supply a fact where the facts are known; nor will it be indulged to sustain an illegal act. Kratky v Andrews, 224 M 386, 28 NW(2d) 624.

The intent of the legislature is not to be defeated by placing a narrow or technical construction upon words if the context and the purpose of the statute as a whole indicate they were used in a popular sense with a broader meaning; and where the words are not explicit, the object of the statute, the mischief to be remedied, and the consequences of a particular interpretation may be considered in ascertaining legislative intent. Governmental Bureau v Borgen, 224 M 313, 28 NW(2d) 760.

The language of a statute will be construed in harmony with the ordinary rules of grammar, unless such construction clearly violates the legislative intent. Where the words are not explicit the object of the statute, the mischief to be remedied, and the consequences of a particular interpretation may be considered in ascertaining legislative intent. In ascertaining legislative intent, there is a presumption that the legislature did not intend to violate the constitution or to bring about a result that is absurd. Governmental Bureau v Borgen, 224 M 313, 28 NW(2d) 760.

If language is unambiguous and clearly expressive of a definite meaning or intent, there is no room for construction, and the meaning or intent so expressed must govern. A clearly expressed intent is derived from the natural import of language in conveying a certain and specific meaning to the obvious exclusion of other meanings. Governmental Bureau v Borgen, 224 M 313, 28 NW(2d) 760.

In ascertaining legislative intent, there is a presumption that the legislature did not intend to violate the constitution or bring about a result that is absurd. Governmental Bureau v Borgen, 224 M 313, 28 NW(2d) 760.

The purpose of an exception or "grandfather clause" is to exempt from the statutory regulations imposed for the first time on a trade or profession, those members thereof who are then engaged in the newly regulated field; and the general rule is that a practitioner of a trade or profession in contemplation of the grandfather clause is one who habitually holds himself out to the public as such, although the extent of the practice is not controlling, it must be sufficiently regular, according to the circumstances of the particular case, to denote a continuing occupation. State ex rel v Streeter, 226 M 450, 33 NW(2d) 56.

Where a teacher of barbering on the effective date of section 154.065 was working in a war plant and doing only part-time teaching because the draft had materially reduced the number of barber college students, the board of barber examiners acted arbitrarily in refusing to grant teachers a license under the grandfather

clause of the statute authorizing issuance of licenses to persons then teaching. State ex rel v Streeter, 226 M 458, 33 NW(2d) 56.

A statutory definition cannot be enlarged by usage or custom, but, where the definition is not clear as to scope and meaning of its terms, it is proper to examine the subject matter, circumstances under which legislation was enacted, object to be attained, and consequences of a particular interpretation. The legislature never intends a result that is absurd or unreasonable. State v Dalrymple, 227 M 533, 35 NW(2d) 714.

In an action by an employee of defendant's tavern to recover damages under section 340.95 for injuries sustained when defendant's manager assaulted plaintiff, the employee's exclusive remedy is under the Workmen's Compensation Act which covers the relationship of master and servant to the exclusion of any liability in common law or otherwise and supersedes the civil damages section of the Liquor Control Act. Fox v Swartz, 228 M 233, 36 NW(2d) 708.

Although it is a general rule that constitutional provisions exempting property from taxation are to be strictly construed, such provisions though not subject to extension by construction or implication are to be given reasonable, natural and practical interpretation in the light of modern conditions in order to effectuate the purposes for which the exemption is granted. Christian Businessmen's Committee v State, 228 M 549, 38 NW(2d) 804.

Independently of any statute on the subject, court in exercise of its general equitable powers, though an action for divorce or separate maintenance is not pending and though grounds for such action do not exist, may award the wife support and maintenance where she is justifiably living apart from the husband, and such power includes the rights to make provisions for the custody and maintenance of minor children. Independently of any statute on the subject, court in exercise of its general equitable powers, though an action for divorce or separate maintenance is not pending and though grounds for such action do not exist, may award the wife support and maintenance where she is justifiably living apart from the husband, and such power includes the rights to make provisions for the custody and maintenance of minor children. Atwood v Atwood, 229 M 333, 39 NW(2d) 103.

Abolition by a repealing statute of an existing statutory remedy, without more, has no effect upon a well-established and long-existing common law or equitable remedy. Atwood v Atwood, 229 M 333, 39 NW(2d) 103.

Legislative intent may not be defeated by reason of the fact that the fulfillment of that intent creates an inequitable situation. Statutes are presumed to have been passed with deliberation and with full knowledge of all existing statutes on the same subject. When statutes are in pari materia they are to be construed harmoniously and together. County of Hennepin v County of Houston, 229 M 418, 39 NW(2d) 858.

Where a municipal ordinance would be lawful if intended for one purpose and unlawful if intended for another, the presumption is that a lawful purpose was intended unless the contrary clearly appears; and where an amending ordinance increased annual license fee for each streetcar from $25 to $100 it is a fair interpretation that this was intended to apply only to a proper police power purpose. Minneapolis St. Ry. Co. v City of Minneapolis, 229 M 502, 40 NW(2d) 353; Ramaley v City of St. Paul, 226 M 406, 33 NW(2d) 19.

In construing statutes the supreme court will endeavor to discover and effectuate legislative intent and will consider contemporaneous legislative history, legislative and administrative interpretations of the statute, the mischief to be remedied and the objects sought to be accomplished, other statutes relating to the same subject matter, and the disability of avoiding an absurd result if that can be done without doing violence to the language of the statute. Stabs v City of Tower, 229 M 552, 40 NW(2d) 362; Wheeler v Seaboard Surety Co., 218 M 443, 16 NW(2d) 519; Governmental Research Bureau v Borgen, 224 M 313, 28 NW(2d) 760; County of Hennepin v County of Houston, 229 M 418, 39 NW(2d) 858; State ex rel v Fitzsimmons, 226 M 557, 33 NW(2d) 854; Foley v Whelan, 219 M 209, 17 NW(2d) 367; State v Industrial Tool Works, 220 M 591, 21 NW(2d) 31.

Judicial construction of a statute, unreversed, is as much a part thereof as if it had been written into the statute. The amendment of a statute raises the presumption legislature intended to make some change. Western Union v Spaeth, 232 M 128, 44 NW(2d) 440.

Age of legal capacity is wholly a matter of legislative regulation, and disabilities of infancy may be removed for certain purposes at an earlier age than for others. Adoption of Anderson, 235 M 192, 50 NW(2d) 278.

Where a court of last resort has construed the language of a statute the subsequent reenactment of the statute is intended by the legislature to bar the court's prior construction. State ex rel v City of Minneapolis, 235 M 174, 50 NW(2d) 296.

Where an act of the legislature is susceptible of two constructions, one of which will render it constitutional and the other unconstitutional, the court should adopt the former. City of Duluth v Northland Greyhound Lines, 236 M 260, 52 NW(2d) 774.

Courts are guided by the presumption that the legislature did not intend by its enactments to bring about results which would be absurd or unreasonable. The power of a municipality to annex territory of another municipal corporation is not necessarily implied from or incident to a power expressly granted "to annex adjacent or contiguous platted territory." State ex rel v City of Columbia Heights, 237 M 124, 53 NW(2d) 831.

A construction of a statute which leads to an impractical and absurd result is to be avoided if the language used reasonably bears any other construction. Bricelyn School District v County Commissioners, ... M ....., 55 NW(2d) 597.

In an action by an automobile passenger against his host, whose westbound automobile was traveling on an arterial highway, and another motorist, whose northbound automobile did not stop for the stop sign, for injuries arising from the intersectional collision, failure to properly qualify an instruction that reduced-speed statute was applicable if, before entering the intersection, the westbound motorist saw the northbound automobile was reversible error in view that the westbound motorist's counsel objected thereto before and at the end of the charge. Neal v Neal, ... M ....., 56 NW(2d) 673.

Although enacted at different times, the legislature regarded the acts of 1934 and 1943 and the Civil Damage Act as supplementary to one another and as integral parts of a uniform plan for controlling the sale and consumption of intoxicating liquor, and the legislature clearly intended the word "person" to apply and include municipal corporations engaged in selling liquor. Hahn v City of Ortonville, ... M ....., 57 NW(2d) 254.

Where the words used in the constitution are clear and unambiguous in their meaning, the constitution cannot be amended under the guise of practical construction. State ex rel v Mrs. Mike Holm, et al, filed by Supreme Court, Jan. 29, 1954.

645.18 GRAMMAR AND PUNCTUATION OF LAWS

The supreme court cannot read into clear language of an amended section of the constitution a provision omitted therefrom solely because such provision was in practice read into the original section before amendment. Kernan v Holm, 227 M 1, 34 NW(2d) 327.

The court may transpose words and phrases of the statutes only when their transposition is necessary to give the statute meaning and avoid absurdity; where the transposition is necessary to make the statute consistent and harmonious throughout, when the mistake is obvious, or where it is apparent on the face of the statute that the word or phrase has been misplaced through inadvertence. Gale v Commissioner of Taxation, 228 M 345, 37 NW(2d) 711.

645.19 CONSTRUCTION OF PROVISOS AND EXCEPTIONS

A criminal complaint should negative an exception found in the enacting clause or descriptive of the offense but need not negative an exception not descriptive of

the offense and not found in the enacting clause. State v Minor, 137 M 254, 163 NW 514.

The natural and appropriate office of a proviso is to modify the operation of a portion of the statute immediately preceding it or to restrict or qualify the generality of the language it follows. Dahlberg v Young, 231 M 60, 42 NW(2d) 570.

The public right of freedom of transit in air commerce through the navigable air space of the United States is subject to the paramount rights of the federal government to promulgate air regulations and air bans under its exclusive sovereignty in air space under the provisions of 49 USC 176a. U. S. v Perko, 108 F Supp 315.

645.20 CONSTRUCTION OF SEVERABLE PROVISIONS

Notwithstanding only one consideration covered, the covenants are divisible and the valid covenant may be enforced. It is the plaintiff who asserts the invalidity of the covenant and seeks to escape his obligations thereunder, while retaining the full benefits. Larx v Nicol, 224 M 1, 28 NW(2d) 719.

The fact that section 8 of Laws 1945, Chapter 607, is invalid because the subject of that section is not expressed in the title of the act does not render the whole act invalid for that reason. The provisions of the act are not so connected in subject matter or so dependent upon each other, operating together for the same purpose, or otherwise so related in meaning that it cannot be presumed that the legislature would have passed the one without the other. State ex rel v Burt, 225 M 86, 29 NW(2d) 655.

Laws 1947, Chapter 528, Section 1, Clause (c), which attempts to prevent manufacturers and wholesalers of intoxicating liquors from manufacturing or selling wines, and which attempts to prevent manufacturers and wholesalers of wines containing not more than 24 percent of alcohol by volume from manufacturing or selling intoxicating liquors, is arbitrary and unreasonable and violative of the equal protection clauses of the state and federal constitutions, since it ignores a similar separation of retailers of the same products within the state. Beng v Erickson, 227 M 1, 34 NW(2d) 725.

In a declaratory judgment action to determine the rights of a municipality and a contractor in and to receipts from parking meters during a certain period under a purported contract between the parties which had been declared void, the supreme court cannot consider the issue raised by one of the parties as to whether the purported contract contained severable rental provisions which might have survived the decision of the supreme court invalidating the award as a transaction of purchase and sale only. City of St. Paul v Dual Parking Meter Co., 229 M 217, 39 NW(2d) 174.

645.21 PRESUMPTION AGAINST RETROACTIVE EFFECT

No law shall be construed to be retroactive in its application unless clearly so intended by the legislature. Courts will presume that laws were intended for the future and not for the past unless the contrary clearly appears by virtue of the language used. Benz v Schenley, 227 M 249, 35 NW(2d) 436.

Where there is nothing to indicate a contrary purpose, ordinarily a newly-enacted statute which repeals a prior statute governs pending and uncompleted cases instituted under the prior law insofar as procedure and evidence not affecting substantive rights are concerned. Schroeder v Busack, 233 M 12, 47 NW(2d) 592.

No statute law is to be construed to be retroactive unless clearly and manifestly so intended by the legislature. Chapman v Davis, 233 M 62, 45 NW(2d) 822.

"Domicile" and "residence" as ordinarily used in the statutes regulating service of process are not synonymous, and a change of residence may take place without an accompanying change of domicile. "Actual residence," in light of the purpose of a constructive service statute, as distinguished from mere temporary place of abode of a sojourner, involves a connotation of permanency in the sense of establishment of usual place of abode without, however, necessarily involving that greater degree of permanency which is characteristic of legal domicile. Hughes v Lucker, 233 M 207, 46 NW(2d) 497.

The courts will not decide questions of constitutionality unless absolutely necessary to do so. If a statute is partially invalid, an amending enactment may be valid. State ex rel v Common School District No. 65, 237 M 150, 54 NW(2d) 120.

Laws 1949, Chapter 691, Section 1, enables the annual school meeting in a common school district to fix the compensation of members of the school board. This law applies beginning with the 1949 annual meeting and is retrospective. The salary having been established is effective during the school year and cannot be modified until the next annual meeting. OAG July 29, 1949 (161-A-6).

645.26 IRRECONCILABLE PROVISIONS

In an action by an employee of defendant's tavern to recover damages under section 340.95 for injuries sustained when defendant's manager assaulted plaintiff, the employee's exclusive remedy is under the Workmen's Compensation Act which covers the relationship of master and servant to the exclusion of any liability in common law or otherwise and supersedes the civil damages section of the Liquor Control Act. Fox v Swartz, 228 M 233, 36 NW(2d) 708.

No basis for reconciling two conflicting legislative enactments exists when to give effect to both contravenes the legislative intent. Gale v Commissioner of Taxation, 228 M 345, 37 NW(2d) 711.

In the absence of statutory authority, no local police or other officer can suspend or modify any provision of the Highway Regulation Act so as to relieve any person from compliance therewith. Demmer v Grunke, 230 M 188, 42 NW(2d) 1.

If both laws may be operated without repugnance to the other there is no repeal by implication; but when a permanent provision is properly included in an Appropriation Act, is not necessarily inconsistent with an earlier law, and so repugnant to the earlier law that the two laws cannot stand together and be operative at the same time, there is an implied repeal of the earlier law. State v City of Duluth, ... M ....., 56 NW(2d) 416.

Laws 1947, Chapter 534, Section 4, supersedes the provisions of section 526.01 relating to payment or refundment of the $10 per month charged for maintenance of an inmate of a state institution. OAG Dec. 9, 1947 (248).

Laws 1947, Chapter 492, was approved April 25, 1947, and Laws 1947, Chapter 633, was approved April 28, 1947, five days later. Consequently, chapter 633 amends the law as amended by chapter 492; and where a family resides in school district No. 52 and the wife owns land in independent school district No. 46, elementary pupils in the family may attend school in district No. 46 and enjoy the benefits of transportation by district No. 46 school bus. Schools are conducted in district No. 52; therefore district No. 46 may collect tuition and transportation for the elementary pupils, but must credit against such transportation the amount the wife pays as taxes on the land she owns in district No. 46. OAG Dec. 17, 1947 (180-D).

Section 273.06 is a law of general application. Laws 1927, Chapter 107, was enacted subsequently and applies to the town of Stuntz only. Under the provisions of section 645.26, subdivision 1, the provisions of section 273.06 are inapplicable, and the town assessor has no authority to appoint a deputy, and any deputy assessors must be employed by the town board, in accordance with Laws 1927, Chapter 107. OAG Jan. 21, 1948 (12-E).

The legislature, by enacting section 275.44 at a session later than the one enacting section 215.24 did not manifestly intend to repeal section 215.24 but effect must be given to both sections, and the special provision in section 215.24 must be considered as an exception to the general provisions of section 275.44 so that an examination being made by the public examiner, the cost thereof may be spread as a special levy over and above the $50 per capita limitation. OAG May 12, 1948 (353-A-3).

All provisions of the Veterans Adjusted Compensation Act have been in full force and effect since April 24, 1949, but no money is now in the compensation fund; but it has been the practice for many years for the commissioner of administration to allot funds from anticipated receipts where he knows that such receipts will in

fact be later paid into the state treasury. Consequently, funds may be allotted subject to the approval of the executive council for the respective activities of the commissioner of veterans affairs to cover the activities incident to the sale of the compensation bonds. OAG May 31, 1949 (822).

Laws 1951, Chapter 713, and Laws 1951, Chapter 704, being in conflict as to the salary to be paid the commandant of the soldiers home, chapter 713 governs the salary to be paid the commandant. OAG June 8, 1951 (394).

645.27 STATE BOUND BY STATUTE, WHEN

In condemnation proceedings the state was acting in its sovereign capacity and consequently costs and disbursements cannot be taxed against it, there being no statutory provision permitting it. State v Bentley, 225 M 244, 28 NW(2d) 770.

The village of Falcon Heights within the territorial limits in which there is located the state fairgrounds does not have authority to license activities carried on in the fairgrounds. OAG June 10, 1949 (4).

The state of Minnesota, in constructing state buildings through a contractor, is not amenable to local zoning ordinance. OAG July 5, 1949 (59-A-9).

State or federal operated restaurants or cafeterias are exempt from inspection and license. OAG Dec. 22, 1947 (238-J).

In foreclosure mortgages running to the state a power of attorney is not required. OAG Dec. 26, 1951 (301-C-1).

The legislature did not intend, in enacting Laws 1953, Chapter 470, to require motor vehicles of faculty members or students to attach stickers to their motor vehicles while attending or studying at a university station connected with some course of study nor would a motor vehicle serving the station by furnishing material or supplies require a sticker; but a motor vehicle driven to, from, or within the park by guests, visitors, or others for purposes not connected with the work, maintenance, or operation of the station would be required to use stickers on their motor vehicles. OAG July 11, 1953 (330-A-3).

When at the May tax sale land is bid in for the state and subsequently no notice of expiration of date for redemption is served within the limitation provided by section 281.321, the tax sale certificate is void and should be canceled under the procedure outlined in sections 281.324 or 231.26. OAG Aug. 27, 1948 (409-A-1) (419-F) (423-C).

645.31 CONSTRUCTION OF AMENDATORY LAWS

An amendatory act to the extent that it changes the prior law in effect repeals the prior law and substitutes a new law. State v One Oldsmobile, 227 M 280, 35 NW(2d) 525.

Where an exception was not in the original draft of the bill but came in by way of amendment, the court will assume that the legislature adopted the exception advisedly and with full knowledge of the generally accepting meaning of the words used therein. Bucko v Quest, 229 M 131, 38 NW(2d) 223.

A later law which merely re-enacts a former does not repeal an intermediate act which qualifies or limits the first one, but such intermediate act is deemed to remain in force and to qualify or modify the new act in the same manner as it did the first. State ex rel v Borgen, 231 M 317, 43 NW(2d) 95.

The adoption of an amendment to a statute raises a presumption that the legislature intended to make some change in the existing law. Western Union Tel. Co. v Spaeth, 232 M 128, 44 NW(2d) 440.

"Domicile" and "residence" as ordinarily used in the statutes regulating service of process are not synonymous, and a change of residence may take place without an accompanying change of domicile. "Actual residence," in light of the purpose of a constructive service statute, as distinguished from mere temporary place of abode of a sojourner, involves a connotation of permanency in the sense of establishment

of usual place of abode without, however, necessarily involving that greater degree of permanency which is characteristic of legal domicile. Hughes v Lucker, 233 M 207, 46 NW(2d) 497.

No statute law is to be construed to be retroactive unless clearly and manifestly so intended by the legislature. Chapman v Davis, 233 M 62, 45 NW(2d) 822.

Even though a statute is in part invalid an enactment amending the former statute may itself be valid. State ex rel v Common School District No. 65, 237 M 150, 54 NW(2d) 130.

A judge of the district court more than 70 years of age, but who has not "served as a judge of the district court or as such judge and as a judge of a municipal court or a probate court of this state, or either, continuously for 25 years or more" is entitled upon retirement to receive compensation for the remainder of his term and not thereafter. Under Laws 1945, Chapter 507, Section 3, the amount of retirement compensation is fixed by the salary paid to the district judge in effect as the date of the enactment of chapter 507 and under the construction of the statutes as found in section 645.31 the retirement compensation must be as it would have been prior to the passage of chapter 507, notwithstanding any later increase in the compensation of district judges. OAG March 29, 1948 (141-D-5).

No law shall be construed to be retroactive unless clearly and manifestly so intended by the legislature. New provisions of the law amending a previous law are construed as effective only from the date when the amendment becomes effective. The requirement found in Laws 1953, Chapter 372, that a pupil must complete the studies required for the 9th grade applies to children below the age of 16 years but it does not include pupils legally excused prior to the effective date of the 1953 amendment. OAG July 23, 1953 (169-B).

645.32 MERGER OF SUBSEQUENT AMENDMENTS

Laws 1949, Chapter 141, and Laws 1949, Chapter 418, both amending section 275.09, should be construed together and effect given to each. The amendments are not irreconcilable. Each has a different purpose. The object of each was accomplished. Neither purpose was inconsistent with the other. OAG July 19, 1949 (519-D).

645.35 EFFECT OF REPEAL

Independently of any statute on the subject, court in exercise of its general equitable powers, though an action for divorce or separate maintenance is not pending and though grounds for such action do not exist, may award the wife support and maintenance where she is justifiably living apart from the husband, and such power includes the rights to make provisions for the custody and maintenance of minor children. Independently of any statute on the subject, court in exercise of its general equitable powers, though an action for divorce or separate maintenance is not pending and though grounds for such action do not exist, may award the wife support and maintenance where she is justifiably living apart from the husband, and such power includes the rights to make provisions for the custody and maintenance of minor children. Atwood v Atwood, 229 M 333, 39 NW(2d) 103.

Abolition by a repealing statute of an existing statutory remedy, without more, has no effect upon a well-established and long-existing common law or equitable remedy. Atwood v Atwood, 229 M 333, 39 NW(2d) 103.

Where there is nothing to indicate a contract purpose, ordinarily a newly-enacted statute which repeals a prior statute governs pending and uncompleted cases instituted under the prior law insofar as procedure and evidence not affecting subsequent rights are concerned. Schroeder v Busack, 233 M 12, 47 NW(2d) 592.

Laws 1949, Chapter 371, became effective on July 1, 1949. It related to the storage rate on corn. The repeal of the rate provisions of section 232.06 by the 1949 Act did not affect the rights accrued under warehouse receipts issued for the storage of corn on April 1, 1949. The old rate applies. OAG July 6, 1949 (K-745).

645.37 REPEAL AND REENACTMENT

The legislature determines whether a city is liable for the torts of a city department, or whether the department is solely liable. Mitchell v City of St. Paul, 228 M 64, 36 NW(2d) 132.

The board of water commissioners of the city of St. Paul are liable for torts committed by it and the city under the provisions of its home rule charter is not liable. The adoption of a home rule city charter is an exercise of legislative power and constitutes a local statute. Section 465.09 applies to the board of water commissioners of the city of St. Paul and operates to repeal and supersedes that part of the city charter, prescribing a special local regulation governing the presentation of notice of claim against the board; and in the instant case presentation of notice of claim for trespass is not required. Mitchell v City of St. Paul, 228 M 64, 36 NW(2d) 132.

Where an act re-enacts a former act with some additional requirements the amendatory act after its enactment, is the only enactment on the subject as to future transactions. State ex rel v Common School District 65, 237 M 150, 54 NW(2d) 130.

645.38 EFFECT OF REENACTMENT ON INTERVENING LAW

A later law which merely re-enacts a former does not repeal an intermediate act which qualifies or limits the first one, but such intermediate act is deemed to remain in force and to qualify or modify the new act in the same manner as it did the first. State ex rel v Borgen, 231 M 317, 43 NW(2d) 95.

645.39 IMPLIED REPEAL BY LATER LAW

A special statute applicable to a particular place or locality is not repealed by a general statute unless the intent to repeal or alter the special statute is manifest. Stanchfield v Salisbury, 228 M 367, 37 NW(2d) 444.

If there is an inconsistency between section 125.06, subdivision 4, sections 128.087 and 128.088, the later enactment controls. OAG Sept. 28, 1950 (168-E).

Where a new statute, not in the form of amendments to prior statutes, 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 insofar as they apply thereto; and in the instant case Laws 1949, Chapter 429, Section 2, governs and establishes the salary of the chief clerk of the conciliation court. OAG May 23, 1949 (742).

645.43 EFFECT OF REPEAL ON LIMITATIONS

HISTORY. GS 1866 c 121 s 7; GS 1878 c 121 s 7; GS 1894 s 7518; RL 1905 s 5509; GS 1913 s 9403; 1941 c 492 s 43.

DEFINITIONS OF WORDS AND PHRASES

645.44 PARTICULAR WORDS AND PHRASES

HISTORY. RS 1851 c 2 s 1; 1852 Amend p 5 s 1; RS 1851 c 82 s 42; PS 1858 c 3 s 2; PS 1858 c 72 s 42; 1860 c 23 s 1; GS 1866 c 4 s 1; GS 1866 c 66 s 68; GS 1878 c 4 s 1; GS 1878 c 66 s 82; GS 1878 c 124 s 1; 1889 c 96 s 1; 1891 c 122 s 1; 1893 c 89; GS 1894 s 255, 5222, 7987; 1895 c 352; 1899 c 86; 1899 c 165; RL 1905 s 5514; 1907 c 254; GS 1913 s 9412; 1917 c 233; 1921 c 15; 1921 c 171; 1941 c 492 s 44; 1945 c 337 s 1; 1947 c 201 s 4.

The procedural portion of a remedial statute, particularly one directing adoption by an administrative board of rules for its operation, cannot, in the absence of expression of legislative intention to that effect, control the substantive portions of the same statute, prescribing the rights and obligations thereby created. Ordinarily sta-

tutory directions not relating to the essence of the thing to be done, compliance wherewith is a matter of convenience rather than substance, are not mandatory. They are directory only, as distinguished from the substantive provisions relating to the essence, which are mandatory. Generally speaking, those provisions which do not relate to the essence of the thing to be done and as to which compliance is a matter of convenience rather than substance are directory, while the provisions which relate to the essence of the thing to be done, that is, to matters of substance, are mandatory. * * * In many cases the precise time when an act is to be done is not of the essence. Where a statute directs the doing of a thing in a certain time without any negative words restraining the doing of it afterwards, the provision as to time is usually directory, and not a limitation of authority. Bielke v American Crystal Sugar Co., 206 M 308, 288 NW 584; 25 R.C.L. 767.

Where the word "child" or "children" is used in a statute, it means a legitimate child or children except where the language of the statute reflects an intent to the contrary. Jung v St. Paul Fire Dept. Ass'n, 223 M 402, 27 NW(2d) 151.

The constitution and bylaws of unincorporated association, if they are not immoral, contrary to public policy or the law of the land or unreasonable, constitute an enforceable contract between the members by which their rights, duties, powers, and liabilities are measured. The majority of the members may direct the use of the funds of the association with the scope of its declared purposes but the majority cannot against the will of the minority lawfully direct association funds for uses other than those permitted by the constitution and bylaws. In the instant case the majority cannot, contrary to the wishes of the minority, transfer the funds of the local to another organization where members in excess of seven in number continue their allegiance to the parent union and continue to function under the original charter. Liggett v Koivunen, 227 M 114, 34 NW(2d) 345.

The use of the word "may" in a statute provided that the word "person" may extend to a municipality shows that meaning which may be given to the word "person" is permissive, and whether word was used as meaning a municipality is to be determined by application of settled rules of statutory construction. Stabs v City of Tower, 229 M 552, 40 NW(2d) 362.

Where two parties jointly engaged in the wholesale liquor business without obtaining a wholesale liquor dealer's license from the state and a basic wholesale liquor dealer's permit from the federal government, one such party may not recover from the other for damages claimed for breach of contract and for an accounting, although the party plaintiff possessed such license and permit to engage in the wholesale liquor business for itself. Minter Bros. v Hochman, 231 M 156, 42 NW(2d) 563.

The use of the words "may" and "shall" is not decisive of whether a statutory provision is directory or mandatory. To determine the meaning of the word "must" or "may" in a statute, consideration should be given to subject matter, language of the statute, importance of the provisions, object intended to be achieved, and legislative intent. State v Jones, 234 M 488, 48 NW(2d) 662.

Although the Liquor Control Act of 1934, the Act of 1943, and the Civil Damage Act, were enacted at different times, the three acts are supplementary to one another and are integral parts of a unified plan for controlling the sale and consumption of intoxicating liquor. Hahn v City of Ortonville, ... M ....., 57 NW(2d) 254.

Since Saturday is not a holiday a grain weigher is not entitled to overtime for work on Saturday unless he had that week worked 40 hours or the hours worked on Saturday exceeded 10. OAG Aug. 13, 1947 (215-A-3).

Where Christopher Columbus Day falls on Sunday the following Monday is not a holiday under the provisions of section 334.08, for any purpose except as with reference to negotiable instruments. OAG Oct. 7, 1947 (276-C).

Section 334.08 provides that when an instrument matures on Sunday, the following day shall be considered a holiday. This section refers to negotiable instruments only and does not in any way affect the holidays defined in chapter 645.44. Consequently, Monday, Oct. 13, 1947, following Columbus Day, which occurred on Sunday, is not a legal holiday. OAG Oct. 7, 1947 (276-C).

The offices in the county courthouse must be open at reasonable hours on Saturday as well as other week days. Saturday is not a holiday. OAG June 22, 1948 (104-A-10).

The council has authority to determine hours and conditions of employment; and whether municipal offices may be closed on Saturday is a matter for the council to determine, having in mind its duty to keep offices open at all reasonable times for the discharge of public business. The council may adopt a schedule of employment for the municipal employees staggering the shifts of active duty so that the offices are accessible to the public during reasonable hours on Saturday, or in accord with past custom and precedent, and at the same time providing for a 40-hour week basis of active duty for each employee. OAG July 28, 1948 (270-D).

October 12 being a legal holiday voters may not be registered on that day. OAG Sept. 28, 1948 (183-R).

The village of Crystal is not entitled to issue more than three on sale licenses until a certified copy of the 1950 census is filed in the office of secretary of state and discloses the right to an increase in the number of licenses. OAG Nov. 1, 1949 (218-G-6).

If the director of the bureau of the federal census has authority to make a special census of school districts and does so and that a certified copy thereof showing the population of the school district is obtained by the governor and filed with the secretary of state, such special census can be used in determining the tax levy of the school district under the per capita tax law. OAG Aug. 16, 1950 (519-M).

In fixing salaries of county auditors in certain counties using as a factor "the then last preceding federal census," the quoted phrase refers to the census in force at the time the law is applied. OAG Aug. 20, 1951 (104-A-9).

The term "month" contained in sections 148.211 and 148.291 means a calendar month. OAG Aug. 30, 1951 (905-I).

When a holiday falls on Sunday the following Monday is not a legal holiday, but the governor may issue a proclamation requesting observance on Monday. OAG Oct. 16, 1951 (276-C).

A special census may be permitted for the purpose of obtaining the number of persons who inhabit a school district and for the purposes of levying the tax. The word "may" is permissive; the phrase "or at any time thereafter" includes a subsequent year. OAG June 2, 1952 (519-M).

A municipal council has authority to determine the hours, terms and conditions of employment and to specify the holidays as determined by the legislature. No public business shall be conducted upon a holiday except in case of necessity. Whether a necessity exists is in the first instance for the determination of the city council. OAG Nov. 19, 1952 (270-D).

A city council is without power to declare a legal holiday. OAG Oct. 29, 1952 (376-C).

645.45 DEFINITIONS CONTINUED

The minority of a child endures until he or she becomes 21 years old. Garber v Robitshek, 226 M 398, 33 NW(2d) 30.

The words "now teaching" as used in section 154.065, and words of similar import such as "at the time of the passage of this act," are uniformly held to mean not the time of enactment but the time when the act takes effect. State ex rel v Streeter, 226 M 458, 33 NW(2d) 56.

Unless expressly qualified or limited, a day comprises a 24-hour period extending from one midnight to the next midnight. Nelson v Sandkamp, 227 M 177, 34 NW(2d) 640.

A taxpayer, on behalf of himself and others, sued the defendant and others to set aside a conveyance made by the City of Hastings to defendant. The city filed a

complaint in intervention. Trial court dismissed both complaints, and plaintiff and intervenor appealed. Appellate court held that intervenor's petition should not have been dismissed on the ground that no cause of action was pending, since trial court's order sustaining a demurrer to plaintiff's complaint was not a final adjudication. An action is a prosecution in court of some demand or assertion of right by one person against another. A supplemental complaint is to introduce material facts which have occurred after service of original complaint. A supplemental complaint cannot be used to remedy a defective cause of action in the original complaint, but must be confined to its proper function of enlarging or changing the relief to which a party may be entitled in aid of a good cause of action alleged in the original complaint. Muirhead v Johnson, 232 M 408, 46 NW(2d) 502.

A county may grow into or out of a specified class by gain or loss of population or assessed valuation. OAG Oct. 16, 1951 (519-L).

CHAPTER 648

PUBLICATION OF MINNESOTA STATUTES AND ANNOTATIONS

STATUTES

648.01-648.10 Repealed, 1945 c 462 s 17.

648.11 MINNESOTA STATUTES 1945

Importance of legislative precedent in development of American Law. 33 MLR 103.

Legislative folklore. 37 MLR 34.

The act adopting the Minnesota Revised Statutes, approved March 8, 1945, and filed with the secretary of state March 9, 1945, reads as follows: (1) a revision of an existing statute is presumed not to change its meaning, even if there be alterations in the phraseology, unless such intention to change the law clearly appears from the language of the revised statutes; (2) in reenacting a statute, however, intention to change the meaning may as clearly appear from the omission of old as by adding new language; (3) enactment of statutes lies wholly within the legislative field, and what the legislature has authority to enact it has like authority to amend or even repeal; (4) when in 1945 the legislature adopted and enacted the compilation and revision of the general statutes of this state as the "Minnesota Revised Statutes," it thereby recognized and declared the same to be an official compilation, revision, and code. As such, the language chosen and used in the revised statutes must be given effect as the latest expression of the legislative will; (5) where the statutory language is clear and unambiguous, there is no room for construction or interpretation. State ex rel v Washburn, 224 M 269, 28 NW(2d) 652.

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MINNESOTA STATUTES

648.31 BIENNIAL PUBLICATIONS

The Minnesota Statutes revolving fund may pay the cost of printing the court rules as a part of publishing the Minnesota Statutes. OAG Aug. 8, 1951 (500).