

1936 Supplement  
To  
**Mason's Minnesota Statutes**  
1927

(1927 to 1936)  
(Superseding Mason's 1931 and 1934 Supplements)

Containing the text of the acts of the 1929, 1931, 1933 and 1935 General Sessions, and the 1933-34 and 1935-36 Special 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 digest of all common law decisions.



Edited by

WILLIAM H. MASON, Editor-in-Chief  
W. H. MASON, JR. }  
R. O. MASON } Assistant Editors  
J. S. O'BRIEN }

MASON PUBLISHING CO.  
SAINT PAUL, MINNESOTA  
1936

Statutory signals for trains approaching crossing are immaterial when and where train is actually occupying crossing when automobile runs into side thereof. *Crosby v. G.*, 187M263, 245NW31. See *Dun. Dig.* 8175.

**10267-1. Walkathons, etc., prohibited.**—It shall be unlawful for any person or persons, firm or corporation, to advertise, operate, maintain, attend, promote or aid in the advertising, operating, maintaining or promoting any mental or physical endurance contest exhibition, performance or show in the nature of a "marathon," "walkathon," "skatathon," or any other such endurance contest of a like or similar character or nature, whether under that or other names, whether or not an admission is charged, for a period longer than 24 hours. Nothing in this Act shall apply to the continuance of bicycle riding contests of no longer duration than six days, the ordinary amateur or professional athletic events or contests, or high school, college, and intercollegiate athletic sports. (Act Apr. 22, 1935, c. 228, §1.)

**10267-2. Violations a misdemeanor.**—Any person or persons, firm or corporation participating in, attending or promoting any such contest and violating any of the provisions of this Act, shall be guilty of a misdemeanor. (Act Apr. 22, 1935, c. 228, §2.)

**10278-1. Peyote declared illegal.**—No person shall use, sell, transport or have in possession any peyote or preparation of peyote. (Act Apr. 20, 1933, c. 333, §1.)

**10278-2. Violation a misdemeanor.**—The violation of this act shall be a misdemeanor. (Act Apr. 20, 1933, c. 333, §2.)

Sec. 3 of Act Apr. 20, 1933, cited, provides that the Act shall take effect from its passage.

**10278-2a. Possession of certain drugs prohibited (Cannabin, Marijuana, Hashish).**—No person shall in the state of Minnesota produce or possess the drug Cannabin, otherwise commonly known as Marijuana, Hashish, and other colloquial names, or sell or have in possession for sale or distribution, or manufacture, or cause to be prepared or manufactured, any compound, salt, derivative, or mixture thereof for use in cigarettes, cigars, liquid, confection, or in any other manner, or use or induce any person to use any such product or preparation so manufactured or prepared, or have the drug Cannabin in his possession or control for use or distribution for such purposes.

Nothing herein contained shall prohibit a duly licensed pharmacist from having Cannabis or any compound, salt, derivative, or mixture thereof, in his possession and from selling and distributing the same for medicinal purposes only; nor shall anything herein contained prohibit a wholesale dealer of drugs from having in his or its possession, and from selling and distributing, Cannabis, or any compound, salt, derivative, or mixture thereof, provided that such sale and distribution shall be made to duly licensed pharmacists only. (Act Apr. 29, 1935, c. 321, §1.)

**10278-2b. Violation a gross misdemeanor.**—Any person who shall violate any provision hereof shall be guilty of a gross misdemeanor and upon conviction shall be punished as follows: for the first offense, by a fine not exceeding \$1,000.00, or by imprisonment

for not exceeding one year, or by both such fine and imprisonment, and for any subsequent offense, by imprisonment for not less than one year. (Act Apr. 29, 1935, c. 321, §3.)

**10278-2c. Who may enforce act.**—Sheriffs, constables, and other police officers shall enforce the provisions of this act with or without the cooperation of the Department of Agriculture, Dairy and Food, and the Departments of Health of Cities of the First Class. (Act Apr. 29, 1935, c. 321, §4.)

Sec. 5 of Act Apr. 29, 1935, cited, provides that the act shall take effect from its passage.

**10278-3. Definitions.**—A public bathing beach as the term is used in this act, shall be taken to mean any public land, road or highway adjoining public waters, which have been or may be used for bathing or swimming, or any privately owned place which the public is permitted to frequent or use for bathing. (Act Apr. 21, 1933, c. 364, §1.)

**10278-4. Unlawful to bathe at public beaches at certain times.**—In all counties which now have or shall hereafter have a population of 450,000 or more, it shall be unlawful for any person to frequent a public bathing beach or public waters upon which the same immediately borders for the purpose of swimming or bathing, or congregating with others, or to swim or bathe or congregate thereat, between the hours of 10:30 p. m. and 5:00 a. m. of the day following. (Act Apr. 21, 1933, c. 364, §2.)

**10278-5. Ordinances to regulate beaches.**—The governing bodies or boards of all counties having a population of more than 450,000, and all cities, villages and towns situated within such counties, shall have authority by ordinance, resolution or by-law, to regulate the use of public bathing beaches and public waters immediately bordering thereon for the purpose of bathing or swimming or congregating with the others thereat, within their respective territorial limits not inconsistent herewith. (Act Apr. 21, 1933, c. 364, §3.)

**10278-6. May close beaches.**—If any such body or board shall reasonably determine that the safety, health, morals or general welfare of the public shall so require, it may by ordinance, resolution or by-law, provide that any such public bathing beach shall be closed to bathing, swimming and congregating after the hour of 9:00 p. m. or after any time between 9:00 p. m. and 10:30 p. m. of any day. (Act Apr. 21, 1933, c. 364, §4.)

**10278-7. Act not restrictive.**—Nothing in this act shall limit or abrogate any of the existing powers of any body or governing board of any county, city, village or town. (Act Apr. 21, 1933, c. 364, §5.)

**10278-8. Provisions separable.**—If any part or section of this act shall be held to be invalid, it shall not invalidate any of the other provisions hereof. (Act Apr. 21, 1933, c. 364, §6.)

**10278-9. Violation a misdemeanor.**—Any person violating any of the provisions hereof shall be guilty of a misdemeanor. (Act Apr. 21, 1933, c. 364, §7.)

## CHAPTER 100

### Crimes Against Public Peace

**10286. Prize fighting—Aiding—Betting or stakeholding.**

Repealed by Act Jan. 28, 1933, c. 7, §17, effective May 1, 1933, so far as inconsistent with the repealing act (§§3260-1 to 3260-18).

Since the enactment of Laws 1915, c. 363, contract for management of prize fighter is not illegal. *Safro v. L.*, 184M336, 238NW641.

**10287. Fight out of the state.**

*Safro v. L.*, 184M336, 238NW641; note under §10286.

**10288. Apprehension of person about to fight—Bail, etc.**

*Safro v. L.*, 184M336, 238NW641; note under §10286.

**10289. Forcible entry and detainer.**

One moving back day following his removal under writ of restitution and using seed and grain belonging to owner is not guilty of trespass but may be prosecuted for larceny and also for unlawful entry. *Op. Atty. Gen.* (494b-20), Nov. 26, 1934.

**10290. Aiming or discharging firearms, etc.**

A landlord who shot windows out of house with shot gun for sole purpose of forcing tenants to move, without intent to hit anyone, could be prosecuted under this section, but would not be guilty of assault. *Op. Atty. Gen.* (494b-4), Aug. 29, 1934.

**10291. Use of firearms by minors.**

A father who furnished him with the pistol cannot be held liable for an accidental shooting by his son, in

the absence of evidence that, because of youth, mental deficiency, recklessness, or other cause, it was unsafe to intrust the son with the weapon, and that the father was chargeable with knowledge of that fact. *Clarine v. A.*, 182M310, 234NW295. See Dun. Dig. 4466, 10200.

Since a minor under fourteen can hunt protected game only on home premises of his parent or guardian, he can have a bag limit of game only if it was taken on such premises. *Op. Atty. Gen.* (209g), Sept. 19, 1934.

## CHAPTER 101

### Crimes Against Property

#### 10302. Misappropriation and falsification of accounts by public officers.

Where a justice of the peace was elected in 1929 and due to the change in date of village elections his term expired and no successor was elected, and during such vacancy he continued to act and collect fines which he refused to turn over to the village, he might technically be prosecuted under §9971, but preferably under §10302. *Op. Atty. Gen.*, Jan. 6, 1932.

#### 10303. Other violations by officers.

City treasurer did not commit an offense under this section by making deposits in excess of collateral securities given by a bank in lieu of a depository bond under §1973-1. 172M324, 215NW174.

**10305. Officer interested in contract.**—Every public officer who shall be authorized to sell or lease any property, to make any contract in his official capacity, or to take part in making any such sale, lease, or contract, and every employee of such officer, who shall voluntarily become interested individually in such sale, lease, or contract, directly or indirectly, shall be guilty of a gross misdemeanor: provided, however, that any village or city council, town board, or school board, of any town, village or city of the fourth class, otherwise having authority to designate depository for village, city, town or school district funds, of any town, village, or city of the fourth class, may designate a bank in which a member of such board is interested as a depository for village, city, town or school funds of any town, village or city of the fourth class by a two-thirds vote of such board. (R. L. '05, §5032; G. S. '13, §8817; *Apr. 20, 1931, c. 212.*)

172M392, 215NW673.

*Op. Atty. Gen.* (90d), July 23, 1934; note under §1096.

*Op. Atty. Gen.* (90b), July 24, 1934; note under §990.

When the funds are deposited in a bank of which the treasurer, being a member of the school board, is also an officer and stockholder, the exception to the general rule is inoperative. 173M428, 217NW496.

There being no over deposits when the depository banks failed, prior overdeposits or irregularities could not be proximate or any cause for any loss that may arise from the insolvency of the bank. *County of Marshall v. Bakke*, 182M10, 234NW1. See Dun. Dig. 2263b, 2323(77), 2699.

A city treasurer is guilty of malfeasance by depositing city funds in an undesignated bank of which he is stockholder, director, and assistant cashier, and a surety on his bond is liable for money lost through failure of the bank, notwithstanding stipulation in bond relieving surety from liability for loss caused by failure of any bank or other depository, and there is liability under a bond for funds wrongfully deposited during its term, though bank does not fail until afterwards. *City of Marshall v. G.*, 193M188, 259NW377. See Dun. Dig. 8000, 8004, 8022.

Does not prohibit town treasurer from contracting with town. *Op. Atty. Gen.*, Apr. 27, 1929.

Where school district contracts with municipality for library service, member of school board cannot be employed as librarian by the district and municipality jointly, but may be employed by the municipality independent of the contract for library service. *Op. Atty. Gen.*, Sept. 9, 1929.

Does not prohibit school treasurer from depositing funds in bank of which he is stockholder where there has been no designation of a depository. *Op. Atty. Gen.*, Oct. 8, 1929.

Provision in a home rule charter recognizing validity of municipal contract in which officer is interested, if such officer is the lowest bidder, is invalid, in view of this section and Const. art. 4, §36. *Op. Atty. Gen.*, Feb. 10, 1930.

Requiring applicant for dance hall permit to pay expense of patrolling in vicinity of hall to prevent sale of liquor, held not violative of requirement that officers shall not be interested in contracts. *Op. Atty. Gen.*, June 4, 1930.

State may enter into contracts with members of the legislature for architectural service, consulting engineering service, and construction work. *Op. Atty. Gen.*, May 12, 1931, and May 8, 1931.

Purchases in small quantities by a city from a firm in which a member of the council is interested violates this section. *Op. Atty. Gen.*, May 27, 1931.

A bank of which one of the school board members is a director may legally be designated as depository of school funds. *Op. Atty. Gen.*, July 21, 1931.

It is not lawful to designate a bank as a depository for county funds where a commissioner is either a stockholder or director therein, though the designation is made by the board of audit. *Op. Atty. Gen.*, Aug. 11, 1931.

It is legal for a bank to be designated as a depository of school funds where a member of the board of education is a director or stockholder in the bank desiring to be designated. *Op. Atty. Gen.*, Aug. 11, 1931.

County board improving a county aid road cannot purchase a strip of land from a county commissioner for a consideration similar to that being paid to other persons in the vicinity for similar strips of land. *Op. Atty. Gen.*, Aug. 14, 1931.

It is not legal to purchase through a school auxiliary fund authorized by Laws 1917, c. 112, from business men who are on the school board. *Op. Atty. Gen.*, Sept. 30, 1931.

A town treasurer does not violate this section by purchasing town orders at a discount and then receiving payment from the town treasury for the full amount thereof; but since he is an agent for the town, the town could probably recover the profit made by him. *Op. Atty. Gen.*, Oct. 6, 1931.

It is illegal for members of village council, members of water and light commission, and street commissioners to purchase their coal through the village, even though the village is reimbursed in full for the cost. *Op. Atty. Gen.*, Oct. 7, 1931.

A city officer may purchase a bond or certificate of indebtedness of the city. *Op. Atty. Gen.*, Dec. 19, 1931.

President of bank should not be permitted to write insurance policies on city property, commissions going to bank where cashier of bank is city treasurer and is stockholder in bank. *Op. Atty. Gen.*, Mar. 30, 1932.

Doctor, on city council of Granite Falls, was entitled to receive compensation from insurance company for caring for injured city employees. *Op. Atty. Gen.*, Mar. 30, 1932.

Railroad station agent, though member of city council of Granite Falls, may send freight or receive freight or express on railroad for which he works, providing he receives salary from railroad unaffected by city freight or express. *Op. Atty. Gen.*, Mar. 30, 1932.

Veterinarian, who is member of city council of Granite Falls, may not be employed as city dairy inspector and receive salary therefor. *Op. Atty. Gen.*, Mar. 30, 1932.

Where city attorney received compensation from one performing services for city in matter of bond issue, such fees should be paid back to person who paid them, not to city. *Op. Atty. Gen.*, May 25, 1932.

This section applies to members of village council of Litchfield. *Op. Atty. Gen.*, July 28, 1932.

One purchasing land containing gravel pit under contract for deed from county auditor and clerk of court, requiring money received for gravel to be applied on purchase price, could not submit a bid to county for gravel. *Op. Atty. Gen.*, Aug. 9, 1932.

Laws 1931, c. 212, amending this section contravenes the equal protection clause of the 14th Amendment to the Federal Constitution and the special legislation inhibition of Article 4 of state constitution. *Op. Atty. Gen.*, Mar. 23, 1933.

Amendment of this section by Laws 1931, c. 212, authorizing city council to designate as depository bank in which member is interested, is unconstitutional. *Op. Atty. Gen.*, Mar. 24, 1933.

Neither city councilman nor his partner could take employment as laborer with contractor contracting well for city. *Op. Atty. Gen.*, June 3, 1933.

Section applies to a county road foreman. *Op. Atty. Gen.*, June 8, 1933.

A road overseer may not sell gravel to town. *Id.* Town treasurer who is also cashier of depository bank designated by town board is not personally liable for loss of town money. *Op. Atty. Gen.*, June 10, 1933.

It is not lawful for banks to write insurance on school buildings where one of its officers is member of school board. *Op. Atty. Gen.*, June 26, 1933.

Member of school board violates this section where he requires seller of wood to school to employ his team in hauling it. *Op. Atty. Gen.*, June 30, 1933.