

1944 Supplement
To
Mason's Minnesota Statutes, 1927
and
Mason's 1940 Supplement

Containing the text of the acts of the 1941 and 1943 Sessions of the Legislature, both new and amendatory, and notes showing repeals, together with annotations from the various courts, state and federal, and the opinions of the Attorney General, construing the constitution, statutes, charters and court rules of Minnesota together with Law Review Articles and digest of all common law decisions.

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Permitting temporary obstruction in street to aid war work. Op. Atty. Gen. (396c-3), Dec. 28, 1942.

10249. Gasoline, benzine and kerosene cans. [Repealed.]

Repealed. Laws 1941, c. 495.

10255. Deadly weapons.

There is no provision in law providing for a permit to be issued to an individual for purpose of carrying a pistol or revolver, and any informal permit obtained from local sheriff or chief of police has no legal effect other than to aid in overcoming presumption created by this statute. Op. Atty. Gen., (201a-2), Oct. 16, 1939.

Section does not prohibit a person from carrying a concealed weapon, but places upon him burden of proving that he is carrying it for a lawful purpose. Id.

Statute does not prohibit carrying a concealed weapon, but places upon person burden of proving that he is carrying it for a lawful purpose. Op. Atty. Gen., (201a-2), Feb. 15, 1940.

10256. Selling to minors.

Enforcement of act is not a function or duty of division of game and fish or its employees. Op. Atty. Gen. (201a-8), Mar. 18, 1943.

10258. Blank cartridge firearms, certain firecrackers; etc., prohibited.

Sale or use of fireworks, except for supervised public displays, is unlawful. Laws 1941, c. 125.

No person shall manufacture, possess, or deal in explosives without a license. Laws 1941, c. 474.

10263. Failure to ring bell, etc.

Violation of this section could not have been a contributory proximate cause of injury to a passenger who ran into 19th car of train at crossing. Krause v. C., 207M 175, 290NW294. See Dun. Dig. 8197.

Testimony of a passenger in a crowded Ford that he did not hear crossing whistle sounded or locomotive bell rung, it not appearing that such passenger was listening for sounds, or that windows of Ford were open, or that he heard rumbling of freight train running at 25 miles an hour at any moment prior to Ford's collision with 19th car from front, is of no probative value as against positive testimony of several witnesses in a position to know that whistle was sounded and bell rung. Id. See Dun. Dig. 8175.

Slight negative testimony did not overcome the positive affirmative testimony that requisite train signals by bell or whistle were sounded. Engberg v. G., 290NW579. See Dun. Dig. 8175.

Statutory signals for trains approaching a highway crossing are solely for benefit of travelers on highway to warn them of approaching trains, and are immaterial where train is actually upon and occupying crossing when traveler arrives. Rhine v. Duluth, M. & I. R. Ry. Co., 210M281, 297NW852. See Dun. Dig. 8175.

10269-1. Throwing or scattering garbage; etc.

No by-law is needed to prosecute an offense against the statute, and it is therefore unnecessary to determine whether town board or town meeting constitutes the "governing body" of a township. Op. Atty. Gen. (477b-14), May 8, 1942.

CHAPTER 100

Crimes Against The Public Peace

10279. Disturbing meetings—disorderly conduct.

Conviction of disorderly conduct was sustained by evidence of indecent exposure. State v. Mitchell, 207M55, 290NW222. See Dun. Dig. 2751.

CHAPTER 101

Crimes Against Property

10304. Misappropriation, etc., by county treasurer.

A member of village council may not lawfully act as manager of a municipal liquor store, and council is under no obligation to appoint a bookkeeper, and if village recorder is willing to do the work, there is no reason for appointment of any one else, and raising salary of recorder by reason thereof would not constitute violation of law forbidding public officers from being interested in contract. Op. Atty. Gen., (470g), Jan. 15, 1941.

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 employe 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. Provided, further, that any school board is hereby authorized and permitted to contract with co-operative associations in which one or more members of such council or board is a share or stockholder, but not an officer or manager thereof, if such contract is authorized by the unanimous vote of the entire council or board. (As amended Act Apr. 15, 1941, c. 228, §1.)

Possession or sale of any article, material or merchandise by state agencies, officers or employees of the state is unlawful. Laws 1941, c. 58.

Fraud in obtaining approval by depositors of plan for reorganization of a bank. Rien v. Cooper, 211M517, 1NW (2d)847; note under §7690-17. See Dun. Dig. 8028.

Laws 1931, chapter 212, amending this section, is unconstitutional and designation of bank as a depository of which school district board member is an officer is a complete nullity and does not protect school treasurer. Op. Atty. Gen., (90c-2), Oct. 3, 1939.

Member of village council taking part in issuing relief orders violates this section by honoring them at his store, though he charges wholesale price and receives no profit. Op. Atty. Gen., (90a), Oct. 27, 1939.

City cannot enter into a contract with a cooperative society in which councilman is a stockholder, and member of board of directors. Op. Atty. Gen., (90e), Jan. 15, 1940.

Employee of Rural Electrification Association receiving straight salary may be elected to office of city councilman, though city and association are parties to a contract. Op. Atty. Gen., (90e), March 18, 1940.

City treasurer as agent for fire insurance company would violate section by renewing old policy. Op. Atty. Gen., (90c-3), March 19, 1940.

Clerk of an independent school district cannot act as agent for insurance company selling insurance to the district. Op. Atty. Gen. (90c-5), July 12, 1940.

It is not legal for husband of schoolboard member acting as cashier of a local bank to sell insurance to school, though commission goes directly to bank, where cashier draws a salary and as a stockholder participates in dividends at bank and husband supports family. Op. Atty. Gen. (90-C-5), July 30, 1940.

Member of city commission employed at part time work in publishing concern owned by his father does not violate the section if his salary does not depend upon contract between city and publishing concern. Op. Atty. Gen. (90E-5), Aug. 5, 1940.

This section is not applicable in the matter of employment by county commissioners of coroner to examine indigent persons for purposes of hospitalization, but such employment is prohibited by §990. Op. Atty. Gen. (103-E), Aug. 9, 1940.

Member of South St. Paul Sewage Disposal Plant Commission cannot enter into contract with commission for purchase of supplies from his store. Op. Atty. Gen. (90e-5), Aug. 21, 1940.

Board of Education of special school district of Rochester may contract with city aldermen for insurance. Op. Atty. Gen. (90c-5), Aug. 23, 1940.

Purchase of village certificates of indebtedness by a bank, one of whose officers and stockholders is president of council, violates this section, and president's absence from meeting which decides matter does not alter this. Op. Atty. Gen. (90a-1), Dec. 17, 1940.

This section prohibits any school board member from having a pecuniary interest in any contract with school district, and whether local agent of oil company has a pecuniary interest in a contract between school district and oil company is a question of fact. Op. Atty. Gen. (90c-4), Oct. 29, 1940.

Village recorder cannot be appointed manager of municipal liquor store. Op. Atty. Gen. (218g-13), Dec. 17, 1940.

Owing to peculiar features of charter of City of West St. Paul, management of schools being vested in city council and school members not being members of that council, awarding of a contract by council for publication of school proceedings to a newspaper in which a member of school board has a financial interest is not a violation of this section. Op. Atty. Gen., (90E), Jan. 4, 1941.

Member of a school board is prohibited from entering into a contract with district, and this prohibition would be violated if a member acted as supervisor or employee on a W.P.A. project and received compensation therefor. Op. Atty. Gen., (90c-3), Jan. 4, 1941.

Village Treasurer cannot lawfully give bond written by insurance agency in which he has an interest. Op. Atty. Gen., (90E-3), Jan. 14, 1941.

It would be illegal for county board to buy a truck from a company whose local dealer was a member of the county board, even though such member would not receive anything out of the sale. Op. Atty. Gen., (90b), Mar. 27, 1941.

City councilman may enter into contract with Sheldon Memorial Auditorium Board for improvement of auditorium in Red Wing. Op. Atty. Gen., (90e-1), May 28, 1941.

City council could award contract for printing to a local newspaper whose solicitor was a member of city council, where such councilman owned no interest in newspaper and was an employee on a purely salary basis. Op. Atty. Gen., (90e), July 14, 1941.

Member of village council may obtain a license for sale of 3.2 liquors, but probably should not vote upon his own application. Op. Atty. Gen. (217B-7), Aug. 6, 1941.

All county officials who have any part in tax sales, their deputies and employees, may not lawfully purchase land at such sale, and it is very doubtful whether any other county official or his deputies and employees may buy at such sales. Op. Atty. Gen. (90B), Sept. 3, 1941.

Village may not lease premises from a tenant of a councilman. Op. Atty. Gen. (90A-1), Sept. 13, 1941.

An officer of a bank which has been designated as a depository of school district funds violates the law if he assumes office of member of school board which designated depository. Op. Atty. Gen. (358F), Oct. 13, 1941.

Village may not enter into contract to snowplow streets with a partnership of which a council member is affiliated. Op. Atty. Gen. (90A-1), Feb. 17, 1942.

City justice of the peace of Robbinsdale may not lawfully write insurance for the city. Op. Atty. Gen. (90E-3), Feb. 19, 1942.

Councilman holding liquor license is ineligible to vote on establishment of municipal liquor store. Op. Atty. Gen. (218G-13), Mar. 6, 1942.

Whether city alderman who is director of bank violates law when bank writes insurance for the city through agency of an administrative officer of bank is dependent upon his having an interest in the contract. Op. Atty. Gen. (90e-3), Apr. 2, 1942.

Members of school board may not contract with district for transportation of their own children to high school. Op. Atty. Gen. (90c-7), Apr. 14, 1942.

Bookkeeper employed by a town is not within prohibition of this section, and it is doubtful that town would be entitled to a profit made by bookkeeper in purchasing town orders at a discount. Op. Atty. Gen. (90d-4), May 12, 1942.

It would be unlawful for the mayor to sell his property to the city. Op. Atty. Gen. (90e-6), June 12, 1942.

City may enter into contract with company in which member of city council is an employee, but only if he has no interest, directly or indirectly, in the contract. Op. Atty. Gen. (90e), June 19, 1942.

City cannot contract with corporation of which member of city council is a stockholder, but may carry out contracts entered into before stockholder became member of city council. Op. Atty. Gen. (90e), June 19, 1942.

Section as amended is constitutional, and bank of which member of the school board is owner may be designated as a depository by a two-thirds vote of board. Op. Atty. Gen. (90c-2), July 9, 1942, overruling Op. Atty. Gen. March 23, 1933, March 24, 1933, Nov. 13, 1933, Oct. 3, 1939, Oct. 13, 1941, Nov. 15, 1941.

State may contract with wife of captain in highway patrol to obtain storage space for a state car operated by captain. Op. Atty. Gen. (90f), Nov. 12, 1942.

A member of village council who is owner and publisher of a newspaper cannot do the village printing or sell supplies to it, but may publish matter which statute requires a village to publish in a newspaper

printed and published in the village, his paper being the only one in the village. Op. Atty. Gen., Jan. 21, 1943, Jan. 25, 1943.

County welfare board member may not be paid for services rendered as a case worker. Op. Atty. Gen. (125a-64), Mar. 4, 1943.

It is illegal for councilman to make contract with the city embodying a liquor license bond. Op. Atty. Gen., (218g), May 6, 1943.

Member of Water & Light Commission may not be granted liquor license in the city of Moorhead, since execution of necessary bond would involve a contract between an officer and the city in violation of charter. Op. Atty. Gen. (218g), May 21, 1943.

Clerk of a school board may not put in a bid for an old school building which is being sold by the district, nor would it be proper for the clerk's partner to put in a bid with the understanding that if accepted the partner would sell $\frac{1}{2}$ of the property to the clerk. Op. Atty. Gen. (90c-8), May 24, 1943.

Sale of truck by superintendent to school district is illegal. Op. Atty. Gen. (90c-4), May 25, 1943.

Purchase by school district of school supplies from seller who employs member of school board is prohibited. Op. Atty. Gen. (90c-4), July 20, 1943.

County commissioner may not accept work from county engineer on county road, even though there is a manpower shortage. Op. Atty. Gen. (90b-7), July 21, 1943.

A bartender employed by a person to hold an intoxicating liquor license does not have such an interest in the contract embodied in the license and bond as to make it illegal for him to hold the office of city councilman. Op. Atty. Gen. (90e), July 22, 1943.

A member of a school board who is a local physician may not examine candidates for the football team and be paid a fee therefor by the school district. Op. Atty. Gen. (90c-4), Aug. 6, 1943.

A board of education who as a member employed by a lumber yard on salary may not purchase goods from the lumber yard if the manager is, directly or indirectly interested in the contract. Id.

A contract between school board and a dealer in school supplies who employs a member of the school board is prohibited if member of the board is directly or indirectly interested in the contract, which is a question of fact. Id.

10306. Fake statement regarding taxes.

Form provided for application for reduction in assessed valuation of personal property. Op. Atty. Gen., (421a-15), Nov. 23, 1939.

ARSON

10309. First degree.

Arson is a felony, while a conspiracy to commit arson is a misdemeanor. State v. Peterson, 213M56, 4NW(2d) 826. See Dun. Dig. 517b, 1563a, 2406.

There was no prejudicial error or misconduct on part of state in permitting it, in its oral argument, to give tenor of a conversation occurring a month or two before the fire in which statement was made, in presence of defendant, of how a good fire could be set in building which he was later accused of burning, nor was there prejudicial error in admitting evidence of such conversation, where it was of little probative force. State v. Lytle, 214M171, 7NW(2d)305. See Dun. Dig. 520.

Evidence of experienced firemen which did not go further than to state that in their opinion some inflammable substance other than that of which building was constructed or which it contained contributed to the manner and speed with which fire burned and spread was admissible, not testifying that in their opinion it was an incendiary fire. Id.

Evidence tending to prove that defendant was in financial straits, that burned property was insured, and that insurance was about to be canceled, was admissible as tending to prove motive. Id.

Evidence held sufficient to show that fire was incendiary and that defendant set the fire. Id. See Dun. Dig. 520a.

Both corpus delicti and guilt of defendant may be proved by circumstantial evidence. Id. See Dun. Dig. 520a.

An instruction that state "produced some witnesses who established, according to their testimony, that the defendant was in the vicinity of the fire or of the building at about the time the fire broke out. He was identified by some of the state's witnesses," if erroneous in using the word "established," defendant should have invited court's attention to it at the time, and in any case any vice in use of that word was eliminated by the following phrase "according to their testimony." Id. See Dun. Dig. 2479a.

10310. Second degree.

Arson is a felony, while a conspiracy to commit arson is a misdemeanor. State v. Peterson, 213M56, 4NW(2d) 826. See Dun. Dig. 517b, 1563a, 2406.

One who procured, conspired with, or commanded another to burn her house was not guilty of substantive crime of arson where she attempted to prevail upon the party who was to commit the crime not to go on with the plan. State v. Peterson, 213M56, 4NW(2d)826. See Dun. Dig. 517b, 1563a.

10311. Third degree.

Conviction on purely circumstantial evidence was not warranted where inference of innocence was as reasonable as inference of guilt. *State v. Kaster*, 211M119, 300 NW897. See Dun. Dig. 520a.

Arson is a felony, while a conspiracy to commit arson is a misdemeanor. *State v. Peterson*, 213M56, 4NW(2d) 826. See Dun. Dig. 517b, 1563a, 2406.

COUNTERFEITING—FRAUDULENT PRACTICES**10336. Possession of counterfeit coin.**

Manufacturer and sale of tokens or slugs for use in lieu of lawful coin in vending machines, parking meters, or other coin receptacles is unlawful. *Laws 1941, c. 132*.

Evidence held to sustain conviction of the sale of counterfeit notes. *Firoto v. U. S.*, (C.C.A.3), 124 F. (2d) 532.

Manufacturers and vendors of tokens and slugs which bore some resemblance to genuine coins, and which could be used for coins in some vending machines and amusement machines, etc., but which were clearly marked as not intended to be used for money and which would not deceive an ordinary person, were not guilty of violating federal counterfeiting laws. *U. S. v. Gellman*, (DC-Minn), 44 F. Supp. 360.

10348. Registration.

Sheet printed on both sides offering instructions as to use and comments on worth of product is not a trademark which may be registered. *Op. Atty. Gen.*, (385a-7), Mar. 21, 1941.

10357-1. Issuance of labor check without funds a misdemeanor.

Where a check was made out and signed in Ramsey County and delivered to an employee in Todd County and was drawn on a Wisconsin bank, any prosecution must necessarily be had in Ramsey County. *Op. Atty. Gen.* (133B-43), Aug. 10, 1940.

LARCENY**10358. What constitutes.****THE STATUTE GENERALLY****1a. Elements of offense.**

Evidence held to sustain conviction of transportation of motor vehicle from Minnesota into Iowa knowing the same to have been stolen within meaning of controlling Minnesota larceny statute. *Carpenter v. U. S.*, (CCA8), 113F(2d)692.

A contractor securing from owner a real estate mortgage for an unpaid balance under building contract by means of false itemized statements of materials claimed to be used cannot be prosecuted for larceny but may be guilty of obtaining a signature to a written instrument by false pretenses. *Op. Atty. Gen.*, (133B-45), Sept. 27, 1939.

SIMPLE LARCENY**2. What constitutes.**

One having knowledge that others intended to commit larceny was guilty of that offense himself where he assisted them, though only out of curiosity. *State v. Eggermont*, 206M274, 288NW390. See Dun. Dig. 5487.

In prosecution for larceny wherein it appeared that property was returned to owner voluntarily, it was proper to instruct that act of returning property did not wipe slate clean. *Id.*

FALSE PRETENCES**5. What constitutes.**

Obtaining property by giving check and afterwards stopping payment on check. *Op. Atty. Gen.* (494b-7), Aug. 27, 1943.

EMBEZZLEMENT**8. The criminal intent.**

Criminal intent could be inferred from failure of attorney to pay money deposited with him to a third person as directed by client. *State v. Hokenson*, 211M70, 300 NW193. See Dun. Dig. 3004.

9. By officer, agent, clerk, servant or bailee.

Where one was defrauded and paid money to a person who happened to be general agent of an insurance company, fraud being independent of employment as agent, there existed a constructive trust in favor of defrauded person, but he had no right of action against insurance company to whom agent paid the money to cover up embezzlement of premiums, company having no knowledge of the embezzlement or fraud practiced by agent. *Blumberg v. Taggart*, 213M39, 5NW(2d)388. See Dun. Dig. 2998.

A person who received goods and signed as "purchaser" and thereafter sold or disposed of goods, but failed to pay for the same, held not subject to prosecution for embezzlement. *Op. Atty. Gen.* (605B-21), Jan. 10, 1942.

10. Indictment of officer, agent, clerk, servant or bailee.

State v. McGunn, 208M349, 294NW208; note under §10662. A charge of larceny from an unincorporated labor union sufficiently alleged ownership of the property. *State v. Postal*, 215M427, 10NW(2d)373. See Dun. Dig. 3001, 5490.

12. Evidence.

When original possession of property is lawful, mental act of fraudulent appropriation has to be inferred from conduct of accused. *State v. Hokenson*, 211M70, 300NW 193. See Dun. Dig. 3005.

In prosecution of secretary-treasurer of a local labor union for larceny of funds, where defense was good faith in taking money, charges that the defendant and other executive officers were members of the Communist party, which would render them subject to expulsion from the union, and were guilty of such malfeasance in office as would empower president of International Union to put a trustee in charge of the property of the Local, were properly admitted in evidence. *State v. Postal*, 215M427, 10NW(2d)373. See Dun. Dig. 3007, 5497.

In prosecution for secretary-treasurer of a labor union for larceny of funds, there was no prejudicial error in admission of evidence that a general meeting of the Local was preceded by a preliminary meeting whereat friends of the officers of the Local were the only ones admitted, nor in the admission of certain unadmitted accusations made by a union member against the defendant and other officers. *Id.* See Dun. Dig. 3007.

In prosecution of secretary-treasurer of a local labor union for larceny of funds, there was no error in the admission of a check belonging to the local, the proceeds of which were turned over to defendant personally, although the proceeds of the check had been the subject of a criminal prosecution in which defendant had been acquitted by direction of the court, the defendant himself having introduced the judgment roll of his acquittal. *Id.* See Dun. Dig. 3007.

10360. Obtaining money by fraudulent draft.

School board would not be justified in terminating a teacher's contract during year "for cause" for writing checks on bank in which he had no deposits, in absence of a hearing and proof of knowledge and intent. *Op. Atty. Gen.* (172D), Feb. 7, 1942.

Obtaining property by giving check and afterwards stopping payment on check. *Op. Atty. Gen.* (494b-7), Aug. 27, 1943.

10361. Giving check without funds.

Where a check was made out and signed in Ramsey County and delivered to an employee in Todd County and was drawn on a Wisconsin bank, any prosecution must necessarily be had in Ramsey County. *Op. Atty. Gen.* (133B-43), Aug. 10, 1940.

Offense is complete without actual presentment of check for payment. *Op. Atty. Gen.*, (133b-43), Apr. 16, 1941.

School board would not be justified in terminating a teacher's contract during year "for cause" for writing checks on bank in which he had no deposits, in absence of a hearing and proof of knowledge and intent. *Op. Atty. Gen.* (172D), Feb. 7, 1942.

10363. Grand larceny in second degree, how punished.

When original possession of property is lawful, mental act of fraudulent appropriation has to be inferred from conduct of accused. *State v. Hokenson*, 211M70, 300NW 193. See Dun. Dig. 3004, 3005.

10372. Claim of title, when ground of defense.

In prosecution of secretary-treasurer of a local labor union for larceny of funds, where defense was good faith in taking money, charges that the defendant and other executive officers were members of the Communist party, which would render them subject to expulsion from the union, and were guilty of such malfeasance in office as would empower president of International Union to put a trustee in charge of the property of the Local, were properly admitted in evidence. *State v. Postal*, 215M 427, 10NW(2d)373. See Dun. Dig. 5494.

Trial court adequately submitted the question of good faith as a defense. *Id.* See Dun. Dig. 3004.

10373. Intent to restore property.

In prosecution for larceny wherein it appeared that property was returned to owner voluntarily, it was proper to instruct that act of returning property did not wipe slate clean. *State v. Eggermont*, 206M274, 288NW 390. See Dun. Dig. 5487.

10374. Receiving stolen property—Averment and proof.

The test for determining whether property shipped is in interstate commerce while goods are within the state of shipment is generally the original intent, and applying this rule a conviction under federal law of guilty possession of a stolen shipment of goods in interstate commerce was sustained where property was stolen before it left the state but after it left the shipper's hands to be transported in interstate commerce. *U. S. v. Fox*, (CCA2), 126F(2d)237, citing *Hughes Brothers Timber Co. v. Minnesota*, 272US469, 47SCR170, 71LEd359, which reversed 163M4, 203NW436, and *Minnesota v. Blasius*, 290US1, 54SCR34, 78LEd131, which reversed 187M420, 245NW612. See Dun. Dig. 4894, 9121, 9159.

10376. Restoration of stolen property—Duty of officers.

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

Where garage man purchased oil at such a cheap price that he thought it was stolen and turned it over to the police, and suspected thief escaped, oil should be returned to garage man after reasonable time and after any possibility of its being needed as evidence is gone. Op. Atty. Gen. (605B-40), Mar. 27, 1942.

True owner may reclaim his property wherever found, including owner residing in another state where property was stolen. Id.

Dispositions of stolen property and in hands of sheriff when he is unable to find the owner. Op. Atty. Gen., (605b-40), May 20, 1943.

EXTORTION OR OPPRESSION**10378. Interfering with employee or membership in union.**

The labor injunction in Minnesota. 24MinnLawRev757. The state legislature unionism. 38MichLawRev987.

FALSE PERSONATION, ETC.**10386. Obtaining signature by false pretenses.**

In an information charging obtaining of signatures to mortgages and notes by false pretenses, it is not necessary to set out specific invoices and memoranda whereby signatures were obtained where false documents are described in general terms, defendant having right to demand a bill of particulars, unless documents are in his possession. State v. Gottwalt, 209M4, 295NW67. See Dun. Dig. 3736.

Information charging obtaining of signatures to mortgages and notes by false pretenses held to sufficiently charge knowledge on part of defendant of falsity of documents used to obtain signatures and reliance of victims on false representations. Id.

An information charging that two mortgages and two notes were obtained by same false pretenses in one transaction, does not charge more than one offense though separate notes and mortgages bear different dates. Id.

A contractor securing from owner a real estate mortgage for an unpaid balance under building contract by means of false itemized statements of materials claimed to be used cannot be prosecuted for larceny but may be guilty of obtaining a signature to a written instrument by false pretenses. Op. Atty. Gen., (133E-45), Sept. 27, 1939.

10390. False statement in advertisement.

Complaint alleging "did then and there pretend and by means of an advertisement placed over and above a display of sweet corn" did not state a public offense. Op. Atty. Gen. (641b), Oct. 1, 1943.

10392. False statements as inducement to entering employment.

The state legislatures and unionism. 38MichLawRev 987.

10394. Removing property from mortgaged land.

Section does not make it a crime to sell timber on mortgaged land, timber not being a fixture. Op. Atty. Gen. (27g), Nov. 18, 1943.

10395. Selling or concealing mortgage chattels.

If mortgage could have been enforced by mortgagee or its assigns in a civil action, property was "mortgaged" within meaning of statute. State v. Rivers, 206M85, 287 NW790. See Dun. Dig. 1486.

Where Minnesota resident attended auction sale of cattle in Wisconsin and borrowed money there to pay purchase price, executing there a note and mortgage, held

that note and mortgage were governed by usury statute of Wisconsin and not Minnesota, though mortgagee knew that cattle were to be taken to Minnesota and mortgage was filed there. Id. See Dun. Dig. 1540.

"Presumption of innocence" does not conflict with presumptions used to decide law to be adopted in judging whether mortgage involved is void because note secured thereby is usurious. Id. See Dun. Dig. 9993.

Complaint or indictment should not overlook element of "intent to place mortgaged personal property beyond the reach of the mortgagee". Op. Atty. Gen., (133B-59), Feb. 6, 1940.

Crime of removing mortgaged property was committed in that county in Minnesota in which conditional vendee kept property and from which county he removed it when he started for North Dakota to make sale, and he could be prosecuted in such Minnesota county or in county in North Dakota where sale was actually made, under a statute similar to that of Minnesota. Op. Atty. Gen. (133b-59), Apr. 28, 1942.

Intent is a necessary ingredient of the crime, and one taking automobile subject to a conditional sales contract with him when leaving state to engage in work is not necessarily guilty of a crime. Op. Atty. Gen. (133b-59), Sept. 11, 1942.

10396. Indictment.

Intent is a necessary ingredient of the crime, and one taking automobile subject to a conditional sales contract with him when leaving state to engage in work is not necessarily guilty of a crime. Op. Atty. Gen. (133b-59), Sept. 11, 1942.

MALICIOUS MISCHIEF—INJURIES TO PROPERTY**10419. Injuring highways; etc.**

Where there are obstructions on a 4-rod township road established pursuant to §2590, county attorney may prosecute under §§2615 or 10419, but it may be more effective to bring injunction under §10241, in which action land owner may be restrained from interfering with township, or its agents, who are to widen the road. Op. Atty. Gen. (377a-5), Aug. 14, 1940.

Whether installation of tile drainage system in village road constituted malicious mischief is a question of fact. Op. Atty. Gen. (148a), Oct. 15, 1942.

10431. Coercion.

The labor injunction in Minnesota. 24MinnLawRev757. The state legislatures and unionism. 38MichLawRev 987.

10432. Injury to other property.

One removing buildings, fences, timber, etc., from lands forfeited to state for nonpayment of taxes may be prosecuted under this section. Op. Atty. Gen. (412a-24), June 6, 1940.

Timber or logging operators persisting in using truck trails constructed by the state from public roads to lakes as a part of forest fire prevention trails and for purpose of providing ingress and egress to state property leased as summer homesites to private individuals may be prosecuted under this section, if such trails have never been dedicated to public use. Op. Atty. Gen. (203v), Apr. 29, 1942.

10440. Injury to buildings.

One removing buildings, fences, timber, etc., from lands forfeited to state for nonpayment of taxes may be prosecuted under this section. Op. Atty. Gen. (412a-24), June 6, 1940.

10441-1. Willful trespass a misdemeanor.

If a person has been notified to depart from property forfeited to state for non-payment of taxes, he may be prosecuted for willful trespass, for removal of buildings, fences, timber, etc. Op. Atty. Gen. (412a-24), June 6, 1940.

Does not apply to trespass in connection with trapping of game. Op. Atty. Gen., Dec. 5, 1941.

CHAPTER 102**Cruelty to Animals****10443. Overworking animals, etc.**

Exposure of horses and cows. Op. Atty. Gen. (134a), Dec. 26, 1941.

10450. Animal with infectious disease.

Proper measure of damages for negligence in the diagnosis and treatment of pigs, where there was no market value for the sick and exposed pigs by reason of statute, was the difference between their value as they

were on the date of defendant's call, if they were to receive proper treatment, and value of those which survived defendant's treatment. Hohenstein v. Dodds, 215M 348, 10NW(2d)236. See Dun. Dig. 2577a, 7493.

10451. Exposure of animals; etc.

This is not a criminal statute. Op. Atty. Gen. (134a), Dec. 26, 1941.