

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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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 unidentified 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., (133B-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.