

1934 Supplement
To
Mason's Minnesota Statutes
1927

(1927 to 1934)
(Superseding Mason's 1931 Supplement)

Containing the text of the acts of the 1929, 1931, 1933 and 1933-34 Special Sessions of the Legislature, both new and amendatory, and notes showing repeals, together with annotations from the various courts, state, federal, and the opinions of the Attorney General, construing the constitution, statutes, charters and court rules of Minnesota



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coniferous tree, bush, sapling or shrub (except nursery stock) without the written consent of the owner of the land on which the same is grown, whether such land be publicly or privately owned. Such written consent shall contain the legal description of the land where such tree, bush, or sapling or shrub was cut, as well as the name of the legal owner thereof, and such written consent, or a copy thereof certified as a true copy by the person to whom such consent was given, or by the register of deeds of the county in which the land is situated, if recorded in his office, shall be carried by every person cutting, removing or transporting any such trees, bushes, saplings or shrubs untrimmed or in their natural condition, or in any way aiding therein, and shall be exhibited to any officer of the law, forest ranger, forest patrolman, game warden or other officer of the department of conservation at his request at any time. Any such officer shall have power to inspect any such trees, bushes, saplings, or shrubs when being transported in any vehicle or other means of conveyance or by common carrier and to make such investigation with reference thereto as may be necessary to determine whether or not the provisions of this act have been complied with, and to stop any vehicle or other means of conveyance, found carrying any such trees, bushes, saplings, or shrubs upon any public highways of this state for the purpose of making such inspection and investigation and to seize and hold subject to the order of the court any such trees, bushes, saplings, or shrubs, found being cut, removed, or transported in violation of this act. No common carrier or agent thereof shall receive for shipment or transportation any such trees, bushes, saplings, or shrubs unless the consignor, whose name and address shall be recorded, exhibited at the time of consignment the written consent or certified copy thereof herein provided for. Failure to so exhibit such written consent shall be prima facie evidence that no such consent was given or exists. ('27, c. 10, §1; Apr. 22, 1929, c. 285, §1.)

10422-2. Penalties.—Any person who violates any of the provisions of this act shall, for the first violation, be guilty of a misdemeanor; and for a second and each subsequent violation during the same calendar year shall be guilty of a gross misdemeanor. Every written consent for any purpose specified in this act and every certified copy of such consent shall be deemed to be a written instrument within the meaning of the laws relating to forgery, and any person who shall forge any such written consent or certified copy

thereof shall be guilty of forgery in the second degree, and shall be punished accordingly. Any person who shall lend or transfer or offer to lend or transfer any such written consent or certified copy thereof to another person who is not entitled to use the same, and any person not entitled to use any such written consent or certified copy thereof who shall use any such written consent or certified copy thereof, or who shall borrow, receive, or solicit from another any such written consent or certified copy thereof, shall be guilty of a gross misdemeanor, and punished accordingly. ('27, c. 10, §2; Apr. 22, 1929, c. 285, §2.)

10422-5. Certain acts to be misdemeanor.—Every person who shall willfully place or deposit, or cause to be placed or deposited, or who aids or abets or who conspires to aid or abet in the placing or depositing in, upon, under, against, or near to any building, car, vessel, or structure any foul, offensive or injurious substance or compound, or any gas, fluid or substance injurious to life or property, or any noxious or offensive gas, fluid or substance, with intent to wrongfully injure, molest or coerce another, or to injure the property or person of another, or to molest another in the use, management, conduct or control of his business or property; shall be guilty of a gross misdemeanor, and upon conviction thereof shall be punishable by a fine of not more than One Thousand Dollars or by imprisonment in the county jail for not more than one year. (Act Mar. 24, 1931, c. 86, §1.)

10431. Coercion.

To sustain an action for damages on the ground of coercion there must be some wrongful or unlawful act, acts or conduct sufficient to constrain the plaintiff against his will. 174M535, 219NW908.

A threat to shoot an officer if he takes property under replevin papers is a misdemeanor under this section and officer to whom threat is made may arrest without a warrant. 177M307, 225NW148.

Statutory costs denied respondents for failure of brief to comply with paragraph 3. 177M222, 225NW85.

10432. Injury to other property.

Person hiring young man to put emery dust and waste in oil tank of automobile, resulting in damage, may be prosecuted under this section. Op. Atty. Gen., Mar. 4, 1933.

10433. Interfering with electrical apparatus.

Section is without application to action for death of house mover attempting to get house under wires. *Paribault v. N.*, 247NW680.

10437. Draining meandered lakes, etc.

Owner of private lake cannot construct and maintain a channel to a public lake if it injuriously affects the public lake. Op. Atty. Gen., Sept. 26, 1929.

CHAPTER 102

Cruelty to Animals

10443. Overworking animals, etc.

Evidence held sufficient to support finding that horse's death resulted from starvation. *State v. Maguire*, 248 NW216. See Dun. Dig. 279.

One in possession of horse under claim of lien is guilty if he permits it to starve to death. *Id.*

10450. Animal with infectious disease.

Seller of infected hogs, held not entitled to directed verdict for price. 180M78, 230NW259.

CHAPTER 103

Miscellaneous Crimes

10463. Trusts and combinations in restraint, etc.

A patent pooling agreement held not an unlawful attempt to restrain trade. 181M606, 233NW870. See Dun. Dig. 8437.

Contract which restrained trade and limited competition in a reasonable way only, was not obnoxious to the statute. *Pittsburgh Plate Glass Co. v. P.*, 182M368, 234 NW453. See Dun. Dig. 8436(1).

Contracts should be so construed as to uphold rather than defeat them. *Pittsburgh Plate Glass Co. v. P.*, 182 M368, 234NW453. See Dun. Dig. 8434(92).

10493. Gift enterprises defined.

It is not a gift enterprise to enclose a penny sucker within the paraffin wrapper of loaves of bread where the same kind and value is included with each loaf. Op. Atty. Gen., Jan. 9, 1932.

10497. Gift enterprise defined.

Contest held not the sort of gift enterprise defined in this section. 173M337, 217NW345.

10503. Indians located on reservations.

Tribal Indians are immune from arrest or prosecution under state laws for acts committed upon their reservations or allotments. Op. Atty. Gen., Dec. 2, 1931.

Though it may be unlawful for Indian to take wild animals on allotment, a tribal Indian is not personally amenable to state criminal laws. Op. Atty. Gen., Apr. 11, 1933.

Muskrats' skins taken by tribal Indian on allotment may be seized as contraband where not intended to be used on reservation by Indian or his tribe. Id.

10520. Fraudulently presenting claims, etc.

If one presents a claim against a town for bounties on gophers and crows which he did not kill within the town, he violates this section. Op. Atty. Gen., Mar. 18, 1931.

10522-1. Wild flowers protected.

Transplanting moccasin flowers from marshes to home flower garden is not violation of this section, but might afford cause of action for damages. Op. Atty. Gen., June 12, 1930.

There is no other legislation pertaining to picking of wild flowers. Op. Atty. Gen., May 9, 1933.

10530. Railway cars obstructing roads and streets.

Civil liability for placing car so as to obstruct view of main track. 174M404, 219NW554.

10534. Application of term "vagrancy" and extension of the same so as to include various persons.

(5).

Evidence showing solicitation of two men for purposes of sexual intercourse for hire is sufficient to sustain a conviction of prostitution. State v. Burke, 187M336, 245 NW153. See Dun. Dig. 7860c.

10536-1. Employers not to accept consideration for securing employment.—Any employer, or any manager, superintendent, foreman or other representa-

tive of any employer, who directly or indirectly demands or accepts from any employe any part of such employe's wages or other consideration, or any gratuity, in consideration of giving to or securing or assisting in securing for any employe any employment with such employer, shall be guilty of a misdemeanor. (Act Mar. 2, 1933, c. 47.)

10536-2. Circuses prohibited, when.—It shall be unlawful for any person or persons, firm or corporation to conduct any circus in any city or village, or within a radius of six miles of any city or village, within a period of eighteen days immediately preceding the dates of the annual Minnesota State Fair, or during the time of holding such fair. Provided, however, any such circus may be exhibited during this period of time, if and when said circus is engaged or contracted by an accredited Agricultural Society to form a part of the entertainment program of the annual fair of said accredited Agricultural Society. Provided that nothing herewith contained shall exempt said circus from obtaining proper license or permit as provided by law. (Act Apr. 21, 1933, c. 357, §1.)

10536-3. Violation a gross misdemeanor.—Any person or persons, firm or corporation violating the provisions of this Act shall be guilty of a gross misdemeanor and upon conviction shall be punished by a fine of not more than \$1,000.00 or by imprisonment in the county jail for a period not to exceed one year, or by both such fine and imprisonment. (Act Apr. 21, 1933, c. 357, §2.)

10536-4. All Acts and parts of Acts inconsistent herewith are repealed. (Act Apr. 21, 1933, c. 357, §3.)

CHAPTER 104

Criminal Procedure

SEARCH WARRANTS

10537. When issued.

There was no error in condemning and destroying slot machines, though there was no search warrant. 176M 346, 223NW455.

10540. Property seized.—How kept and disposed of.—Whenever, any officer, in the execution of a search warrant, shall find any stolen property, or seize any other things for which search is allowed by law, the same shall be safely kept by direction of the court or magistrate, so long as may be necessary for the purpose of being produced as evidence on any trial, and then the stolen property shall be returned to the owner thereof, and the other things seized destroyed under the direction of the court or magistrate. Any money found in gambling devices when seized shall be paid into the county treasury, or, if such gambling devices are seized by a police officer of a municipality, such money shall be paid into the treasury of such municipality. (R. L. '05, §5199; G. S. '13, §9036; Apr. 13, 1929, c. 177.)

Court erred in ordering that destroyed slot machines should be sold and proceeds of sale and money found in slot machines turned into county treasury. 176M346, 223NW455.

Gambling devices suitable only for use as such may be destroyed under Stillwater ordinance without first prosecuting the keepers thereof. Op. Atty. Gen., June 19, 1931.

Money found in slot machines may not be confiscated, under Stillwater ordinance, and paid into city treasury. Op. Atty. Gen., June 19, 1931.

This section contains no provision for procedure which would be applicable to the forfeiture of money found in gambling devices. Op. Atty. Gen., June 19, 1931.

Where sheriff seized slot machines containing money and proprietor died before trial after pleading not guilty, slot machines could be destroyed upon summary order of court and probably money could be paid into county treasury, but safest course would be to bring proceeding in rem and make personal representative of proprietor a party. Op. Atty. Gen., Sept. 16, 1932.

EXTRADITION

10542. Warrant of extradition, service, etc.

½. In general.

Extradition is governed by the Constitution and laws of the United States, and chapter 19, Laws 1929, ante, §40, cannot interfere or delay its operation. State v. Moeller, 182M369, 234NW649. See Dun. Dig. 8835, 1721.

A prisoner who has been removed from demanding state by federal authorities is nevertheless a fugitive from justice in an asylum state and must be delivered to demanding state upon proper extradition process. State v. Wall, 187M246, 244NW811. See Dun. Dig. 3705.

County attorney is not required to appear for and on behalf of the sheriff in habeas corpus proceedings brought to discharge a person held by the sheriff for the purpose of being extradited to another state. Op. Atty. Gen., May 6, 1931.

Sheriff may charge officials of another state a fee of \$4.00 per day in transporting a prisoner demanded by another state to the boundary line of this state. Op. Atty. Gen., May 6, 1931.

6. Requisition papers.

Whether there was a compliance with Georgia statutes as regarded prerequisites for issuance of requisition warrant was a matter for the governor of that state, and a matter not reviewable by the courts of this state. 178M368, 227NW176.

It is enough that the indictment shows in general terms the commission of a crime; it need not be sufficient as a criminal pleading. 178M368, 227NW176.

11. Review by courts.

Neither the good faith of the prosecution nor the guilt or innocence of the fugitive is open to inquiry. 178M368, 227NW176.

Prerequisites required by foreign statute not for court to review. 178M368, 227NW176.

Discharge by writ of habeas corpus of a prisoner held upon an extradition warrant for reason that courts of one state hold that he is not a fugitive from justice is not res judicata in habeas corpus proceedings in another state. State v. Wall, 187M246, 244NW811. See Dun. Dig. 3713, 5207.

Governor's rendition warrant creates a presumption that accused is a fugitive from justice, and to entitle a prisoner held under such a warrant to discharge on habeas corpus evidence must be clear and satisfactory that he was not in demanding state at time alleged crime was committed. State v. Owens, 187M244, 244NW820. See Dun. Dig. 3713(30).