

1940 Supplement  
To  
**Mason's Minnesota Statutes**  
1927

(1927 to 1940)  
(Superseding Mason's 1931, 1934, 1936 and 1938  
Supplements)

Containing the text of the acts of the 1929, 1931, 1933, 1935, 1937 and 1939 General Sessions, and the 1933-34, 1935-36, 1936 and 1937 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.



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# Mason's Minnesota Statutes

## Part I. Jurisdiction, Divisions, Civil Polity and Internal Administration

### CHAPTER 1

#### Sovereignty and Jurisdiction

##### 1. Extent.

South Dakota-Minnesota Boundary Waters' Commission created. Laws 1939, c. 60.

Fishing in the waters of Rainy Lake on the Minnesota side of the boundary line established by joint action of the governments of the United States and Canada is under the control of this state, until the International Fisheries Commission provided for by the Root-Bryce Treaty functions and assumes control. *State v. Dove*, 183M272, 236NW322(2); 49F(2d)816. See Dun. Dig. 6933.

Where a full-blooded Chippewa Indian received a patent in fee from United States government to 160 acres of land on White Earth Indian Reservation, and, trust period having expired thereon, sold land and removed therefrom, court had jurisdiction of prosecution for violation of state game laws. *State v. Bush*, 195M413, 263NW300. See Dun. Dig. 4348.

The proprietary rights of a state are as absolute and unqualified as those of an individual. *State v. Hubbard*, 203M111, 280NW9. See Dun. Dig. 8829.

In absence of any self-imposed restrictions in its constitution, state may sell and dispose of its property upon its own terms and conditions, for cash or upon credit; and may also take, hold, and enforce notes and obligations received from purchasers of its property same as individuals can. *Id.*

State cannot license an Indian trader on an Indian reservation. *Op. Atty. Gen.*, Nov. 6, 1933.

##### 4. Lands of United States.

Act Mar. 7, 1939, c. 53, authorizes conveyance of certain state land in village of New London, Kandiyohi County, to United States for a fish hatchery.

State courts have no jurisdiction over criminal offenses against state laws committed on Fort Snelling Military Reservation. *Op. Atty. Gen.*, July 21, 1933.

Electrical work done on a U. S. Postoffice, or other government property, is not subject to jurisdiction of either local inspection and ordinances or the state laws. *Op. Atty. Gen.* (188B), Sept. 6, 1939.

Illegal property found in Indian country may be confiscated by state officials, but members of tribes on reservations and not emancipated cannot be prosecuted for violation of state game laws on reservations or on state trunk highways therein. *Op. Atty. Gen.* (240E), Sept. 7, 1939.

##### 6. Certificate of consent.

Recording of certificate of consent to acquisition of land by United States with the register of deeds is a sufficient compliance with this section notwithstanding that land involved may be registered land. *Op. Atty. Gen.* (373b-17f), Dec. 17, 1934.

Fees for filing of certificates of consent to acquisition of land by United States are payable by the secretary of state to the register of deeds. *Op. Atty. Gen.* (373b-10(k)), Dec. 18, 1934.

Certificates of consent for requisition of land by United States for regulation of flow of navigable streams and production of timber provided for governor. *Op. Atty. Gen.* (700e-1), Nov. 15, 1935.

**6-1. Acquisition by United States of lands for customs houses, etc.**—The consent of the state of Minnesota is hereby given in accordance with seventeenth clause, eighth section, of the first article of the Con-

stitution of the United States to the acquisition by the United States, by purchase, by condemnation, lease, or in any other manner whatsoever, of any land, or right or interest therein, in this state, required for sites for custom houses, court houses, hospitals, sanatoria, postoffices, prisons, reformatories, jails, arsenals, depots, terminals, cantonments, military or naval camps or bases or stations, aviation fields or stations, radio stations, storage places, target ranges, forest depots, supply houses, forestry offices, or for any other military or naval purposes whatsoever of the United States government. (As amended Feb. 17, 1939, c. 17.)

In eminent domain in case of conflict between state public use and federal public use, the more necessary public use should be given preference. *Op. Atty. Gen.*, Dec. 11, 1933.

##### 6-2. Same—Jurisdiction, etc.

Summons served under this section on army officer who was resident of Iowa while such officer was at training camp on military reservation in Minnesota, held not void, but voidable only. *N. W. Casualty Co. v. C.*, 210 Iowa126, 230NW548.

Industrial commission cannot enter upon land owned by federal government where post office is being constructed and enforce safety measures provided by §§4141 to 4187, 4279. *Op. Atty. Gen.*, July 28, 1933.

**6-7. Governor to grant easements to United States for flowage or other purposes in certain cases.**—When so requested by the Commissioner of Highways the Governor in behalf of the State, may from time to time, grant, bargain, sell and convey to the United States of America any easement or easements for flowage in and upon any easement or fee owned by the State of Minnesota for trunk highway right of way purposes when the same shall be required by the United States in aid of any public improvement. (Mar. 31, 1937, c. 124, §1.)

**6-8. Monies received credited to highway fund.**—That any payment so received for the granting of any said easement or easements shall be deposited in and become a part of the trunk highway fund. (Mar. 31, 1937, c. 124, §2.)

Sec. 3 of Act Mar. 31, 1937, cited, provides that the Act shall take effect from its passage.

#### COMMON LAW DECISIONS RELATING TO CHAPTER IN GENERAL

##### 1. In general.

When is a suit against a state officer a suit against the state? 13MinnLawRev135.

##### 2. Liability for torts.

Suits may not be maintained against state for personal injury or property damage caused by negligent operation of automobiles operated by employees of various state departments. *Op. Atty. Gen.* (640), Sept. 9, 1939.

### CHAPTER 2

#### Territorial Divisions

##### LEGISLATIVE DISTRICTS

##### 9. Boundaries of Legislative Districts.

###### Thirty-second District

The thirty-second district shall be composed of the eleventh and twelfth wards of the city of Minneapolis,

including that portion of said twelfth ward which was formerly a part of the village of Richfield and has heretofore been annexed to said city, and shall be entitled to elect one senator and two representatives. (G. S. '13, §9; '13, c. 91, §2; '17, c. 217, §2; Mar. 9, 1929, c. 65, §1.)

**Thirty-third District**

The thirty-third district shall be composed of the seventh and thirteenth wards of the city of Minneapolis, including those portions of said wards, respectively, which were formerly part of the village of Richfield and have heretofore been annexed to said city, and shall be entitled to elect one senator and two representatives. (G. S. '13, §9; '13, c. 91, §2; '17 c. 217, §2; Mar. 9, 1929, c. 65, §2.)

**Thirty-sixth District**

The thirty-sixth district shall be composed of the county of Hennepin, outside of the city of Minneapolis, except the town of St. Anthony, excluding the territory which was formerly part of the village of Richfield and has heretofore been annexed to said city, and shall be entitled to elect one senator and two representatives.

The representative districts shall be divided as follows:

The villages of Dayton, Golden Valley, Hanover, Osseo and Robinsdale, and the towns of Brooklyr, Champlin, Corcoran, Crystal Lake, Dayton, Greenwood, Hassan, Maple Grove, Medina and Plymouth shall constitute one district and shall be entitled to elect one representative.

The villages of Deephaven, Edina, Excelsior, Long Lake, Minnetonka Beach, St. Bonifacius, Richfield, St. Louis Park, Tonka Bay, Wayzata and West Minneapolis, and the towns of Bloomington, Eden Prairie, Excelsior, Independence, Minnetonka, Minnetrista and Orono, excluding the territory which was formerly part of the village of Richfield and has heretofore been annexed to the city of Minneapolis, shall constitute one district and shall be entitled to elect one representative. (G. S. '13, §9; '13, c. 91, §2; '17, c. 217, §2; Mar. 9, 1929, c. 65, §3.)

**JUDICIAL DISTRICTS****11. Boundaries and judges.**

(7).  
Judges increased to four by Laws 1931, c. 104.

(14).  
See §162 respecting counties in this district.

**CONGRESSIONAL DISTRICTS****13 to 22. [Superseded].**

Superseded by Act Apr. 8, 1933, c. 185, post §§22-1 to 22-11.

These sections constituted Laws 1913, c. 513, §§1 to 10. Section 6 of the act was amended by Laws 1929, c. 64.

The governor vetoed a new apportionment act passed by the legislature at the 1931 session. The act was filed Apr. 27, 1931, with the Secretary of State on the theory that the act did not require the approval of the governor. The Supreme Court of the United States held that this apportionment act is invalid because it was not submitted to the governor for his approval; and that all representatives for Minnesota must be elected at large until there is a reapportionment. *Smiley v. Holm*, 285 US355, 52SCR397, rev'g 184M228, 238NW494. See Dun. Dig. 8831a, 8831b.

Officers of State Agricultural Society must be elected in accordance with the congressional districts designated in this act, but the manager from the 10th District holds office until the date of the election in January, 1932. Op. Atty. Gen., Oct. 20, 1931.

*Redistricting Act of 1931, being held invalid by United States Supreme Court, Secretary of State could not accept filings for representative in Congress by district, but could accept filings at large. Op. Atty. Gen., Apr. 14, 1932.*

A congressional district under new apportionment act is entitled to a representative on board of managers of state agricultural society and a vacancy exists for a district not represented, though number of directors exceed number of congressional districts. Op. Atty. Gen., May 11, 1933.

**22-1. Congressional districts.**—The State of Minnesota is hereby divided into nine congressional districts, each of which is entitled to elect one representative to the Congress of the United States. (Act Apr. 8, 1933, c. 185, §1.)

Federal House of Representatives has exclusive jurisdiction to determine whether member declared elected was in fact recipient of a plurality of votes cast at election. *Williams' Contest*, 198M516, 270NW586. See Dun. Dig. 9956a.

**22-2. First district.**—The Counties of Rice, Goodhue, Waseca, Steele, Dodge, Wabasha, Olmsted, Winona, Freeborn, Mower, Fillmore and Houston shall constitute the First Congressional District. (Act Apr. 8, 1933, c. 185, §2.)

**22-3. Second district.**—The Counties of McLeod, Carver, Sibley, Scott, Dakota, Nicollet, LeSueur, Brown, Cottonwood, Watonwan, Blue Earth, Jackson, Martin and Faribault shall constitute the Second Congressional District. (Act Apr. 8, 1933, c. 185, §3.)

**22-4. Third district.**—The Counties of Anoka, Chisago, Isanti, Washington, and all of Hennepin County outside of the City of Minneapolis, and the First, Second, Third, Ninth and Tenth Wards of the City of Minneapolis, and the First, Second, Sixth, Seventh, Eighth, Ninth, Tenth, Eleventh and Twelfth Precincts of the Fourth Ward of the City of Minneapolis shall constitute the Third Congressional District. (Act Apr. 8, 1933, c. 185, §4.)

**22-5. Fourth district.**—The County of Ramsey shall constitute the Fourth Congressional District. (Act Apr. 8, 1933, c. 185, §5.)

**22-6. Fifth district.**—The Fifth, Sixth, Seventh, Eighth, Eleventh, Twelfth and Thirteenth Wards of the City of Minneapolis and all of the Fourth Ward of the City of Minneapolis except precincts numbered 1, 2, 6, 7, 8, 9, 10, 11 and 12 shall constitute the Fifth Congressional District. (Act Apr. 8, 1933, c. 185, §6.)

**22-7. Sixth district.**—The Counties of Hubbard, Cass, Wadena, Crow Wing, Aitkin, Todd, Morrison, Mille Lacs, Kanabec, Pine, Stearns, Benton, Sherburne, Meeker and Wright shall constitute the Sixth Congressional District. (Act Apr. 8, 1933, c. 185, §7.)

**22-8. Seventh district.**—The Counties of Traverse, Grant, Douglas, Big Stone, Stevens, Pope, Swift, Lac qui Parle, Chippewa, Kandiyohi, Yellow Medicine, Renville, Lincoln, Lyon, Redwood, Pipestone, Murray, Rock and Nobles shall constitute the Seventh Congressional District. (Act Apr. 8, 1933, c. 185, §8.)

**22-9. Eighth district.**—The Counties of Koochiching, Itasca, St. Louis, Lake, Cook and Carlton shall constitute the Eighth Congressional District. (Act Apr. 8, 1933, c. 185, §9.)

**22-10. Ninth district.**—The Counties of Kittson, Roseau, Lake of the Woods, Marshall, Beltrami, Pennington, Red Lake, Polk, Clearwater, Norman, Mahnomen, Clay, Becker, Wilkin, and Otter Tail shall constitute the Ninth Congressional District. (Act Apr. 8, 1933, c. 185, §10.)

**22-11. Inconsistent acts repealed.**—All Acts and parts of Acts inconsistent herewith are hereby repealed. (Act Apr. 8, 1933, c. 185, §11.)

Sec. 12 provides that the act shall take effect from its passage.

Abolishment of 10 congressional districts also abolish office held by member of board of managers of state agricultural society, and office of one elected for certain district became vacant where place of his residence became part of another district which is represented by another manager. Op. Atty. Gen., May 25, 1933.

**23. [Superseded.]**

This section is taken from Laws 1913, c. 513, §11. It was amended by Laws 1929, c. 64, §2.

Superseded by Act Apr. 8, 1933, c. 185, ante §§22-1 to 22-11.