

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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Repeal of remedy does not mean loss of right or of consent to suit by the state. *State v. Stassen*, 208M523, 294 NW647.

Where attorney general appeared and answered to merits without suggestion of immunity to suit, it may be assumed that he consented to litigate issue his answer presents. *Nollet v. H.*, 210M38, 297NW164, 134ALR192. See Dun. Dig. 8831.

Administrator of Federal Housing Administration is subject to suit for tort of his agent committed in course and scope of agent's employment. *Zins v. J.*, 211M1, 299 NW685. See Dun. Dig. 9956d.

It is fundamental that the United States cannot be sued without its permission, but this sovereign immunity does not extend to its agents, individual or corporate. *Id.*

2. Liability for torts.

General rule is that a governmental agency is not answerable for damages sustained as result of negligence of its officers or agents in performance of governmental functions. *Westerson v. S.*, 207M412, 291NW900. See Dun. Dig. 8831.

By Laws 1939, c. 420, the state waived its sovereign immunity to suit for damages caused by the location, relocation, construction, reconstruction, improvement, maintenance, and supervision of the trunk highways sys-

tem to the extent and within the limits therein specified. *Id.* See Dun. Dig. 8831.

State cannot be sued without its consent, and laws 1937, ch. 480, §1, was not a consent to a suit for injuries in an explosion in a garage where trucks of maintenance department of state highway system were stored and where state employees negligently spilled gasoline. *Underhill v. S.*, 208M498, 294NW643. See Dun. Dig. 8831.

State is not liable for torts of its officers, agents or employes, unless it has assumed or consented to such liability. *Op. Atty. Gen.* (234), Nov. 12, 1941. See Dun. Dig. 8846b.

It cannot be sued without its consent. *Id.* See Dun. Dig. 8831.

State is not liable for damages caused by fire boat in Duluth Harbor crashing into other craft. *Op. Atty. Gen.* (844g), March 18, 1943.

Governmental responsibility for torts in Minnesota. 26 Minn. Law Rev. 293.

Governmental responsibility for torts in Minnesota. 26 Minn. Law Rev. 700.

3. Liability on contracts.

Legislature may prescribe such terms and conditions for right of recovery against state as it deems appropriate. *State v. Wm. O'Neil Sons Co.*, 209M219, 296NW7. See Dun. Dig. 8831.

CHAPTER 2

Territorial Divisions

LEGISLATIVE DISTRICTS

9. Boundaries of Legislative Districts.

Legislature has power at 1943 session to enact a reapportionment act based on 1940 census. *Op. Atty. Gen.* (8a), Jan. 21, 1943.

THIRTIETH DISTRICT

The thirtieth district shall be composed of all that part of the fourth ward lying north of Franklin Avenue; and the twelfth, thirteenth, and fourteenth precincts of the sixth ward, all in the City of Minneapolis and shall be entitled to elect one senator and two representatives. (As amended Apr. 20, 1943, c. 522, §1.)

THIRTY-FIRST DISTRICT

The thirty-first district shall be composed of the sixteenth, seventeenth, eighteenth, nineteenth, twentieth, twenty-first, twenty-second, twenty-third, twen-

ty-fourth, twenty-fifth, twenty-sixth, twenty-seventh, twenty-eighth, twenty-ninth, thirtieth, thirty-first, thirty-second, and thirty-third precincts of the fifth ward and the first, second, third, fourth, fifth, sixth, seventh, eighth, ninth, tenth and eleventh precincts of the sixth ward of the city of Minneapolis and shall be entitled to elect one senator and two representatives. (As amended Apr. 20, 1943, c. 522, §2.)

THIRTY-SECOND DISTRICT

The thirty-second district shall be composed of the seventh, eighth and eighteenth precincts of the seventh ward and the first, second, third, fourth, fifth, sixth, seventh, eighth, ninth, nineteenth, twenty-sixth and twenty-seventh precincts of the eleventh ward and all of the twelfth ward of the city of Minneapolis, and shall be entitled to elect one senator and two representatives. (As amended Apr. 20, 1943, c. 522, §3.)

CHAPTER 3

The Legislature

33. Compensation and mileage.—The compensation of members, officers, * * * * *

(1) to (6) * * * * *

(7). Each member shall receive mileage at the rate of fifteen cents per mile for the distance necessarily traveled in going and returning from the place of meeting, computed from his place of residence. (As amended Apr. 6, 1943, c. 326, §1; Apr. 24, 1943, c. 629, §2.)

Laws 1943, c. 329, §3, provides that the provisions of this Act shall take effect and be in force from and after the first Tuesday after the first Monday in January, 1945.

Contingent fund of lieutenant governor may be used to defray any expenses incurred in connection with discharge of official duties, including automobile mileage expenses. *Op. Atty. Gen.* (280k), May 27, 1941.

Member of House of Representatives may file for office of Lieutenant Governor though legislature has passed an act increasing salaries of members of the legislature, which would automatically increase the salary of the Lieutenant Governor. *Op. Atty. Gen.* (213d), Aug. 5, 1943.

35. Compensation of members.—The compensation of members of the House of Representatives of the Legislature of the State of Minnesota shall be \$2,000 for the entire term to which they are elected, payable as follows: \$500 on the first day of February, \$500 on the first day of March, \$500 on the first day of April

of the year in which the regular legislative session is held, and \$500 on the last day of the regular legislative session; the compensation of Senators of the Legislature shall be \$4,000 for the entire term to which they are elected, payable as follows: \$500 on the first day of February, \$500 on the first day of March and \$500 on the first day of April of each year in which a regular legislative session is held, and \$500 on the last day of such regular legislative session; provided, however, that in the event of extra legislative sessions, members of the legislature shall receive and be entitled to additional compensation at the rate of \$10.00 per day for each day while so engaged in extra session. Said additional compensation shall be paid to the members of the Legislature every ten days and on the last day during such extra legislative session. (As amended Apr. 6, 1943, c. 326, §1; Apr. 24, 1943, c. 629, §1.)

Laws 1943, c. 629, §3, provides that the provisions of that chapter, granting increases in the compensation of members of the legislature, shall take effect from and after the first Tuesday after the first Monday in January, 1945.

Federal victory tax applies to salaries of members of legislature and to help employed by legislature. *Op. Atty. Gen.* (531r), Jan. 9, 1943.