

1936 Supplement  
To  
**Mason's Minnesota Statutes**  
1927

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

Containing the text of the acts of the 1929, 1931, 1933 and 1935 General Sessions, and the 1933-34 and 1935-36 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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CHAPTER 27  
State Public School

**4619. Commitments of school by juvenile courts.**

Where indigent children are committed to state public school at Owatonna but are placed on waiting list, parents and, if they cannot pay, village of their legal settlement are liable for support of children. Op. Atty. Gen., June 14, 1932.

**4620. State Board of Control to assume guardianship.**

Commitment by one county of child having legal settlement in another county binds the committing county for the future care of such child, as an indigent person after its return by the school. Op. Atty. Gen., July 21, 1930.

CHAPTER 28

Railroads, Warehouses and Grain

RAILROAD AND WAREHOUSE COMMISSION

**4628. Election, etc.**

Control of public utilities in Minnesota. 16MinnLaw Rev457.  
History of public utility regulation in Minnesota. 16MinnLawRev471.

**4634. Secretary—Employees.**

Moneys credited to "grain inspection fund" are moneys belonging to state which legislature may appropriate any way it sees fit. Op. Atty. Gen., May 16, 1933.

**4638. Proceedings before commission—How commenced.**

21F(2d)4, notes under §4700.  
Murphy Motor Freight Lines v. W., 191M49, 253NW1; note under §4650.  
The position of Superintendent of Waterworks in the city of Eveleth is within this act, such officer not being the head of a department. 179M99, 228NW447.  
Commission was without jurisdiction where it acted upon an informal letter from telephone company. Dayton Rural Telephone Co. v. N., 188M547, 248NW218.

**4639. Notice to respondent.**

21F(2d)4, notes under §4700.

**4640. Answer.**

21F(2d)4, notes under §4700.

**4641. Hearings before railroad and warehouse commission.**

21F(2d)4, notes under §4700.

**4644. Complaint that rate is unreasonable—Duty of commission.**

21F(2d)4, notes under §4700.  
Murphy Motor Freight Lines v. W., 191M49, 253NW1; note under §4650.

**4650. Procedure for appeals to district court from orders of Railroad and Warehouse Commission.**

Chi. M. St. P. & P. R. Co., (DC-Minn), 50F(2d)430; notes under §4651.  
Where order of Railroad Commission did not affect bus service in Hennepin County appeal to the district court of that county was without jurisdiction. 179M90, 228NW444.

On appeal from order granting electric railway leave to abandon line, it was error to refuse villages affected opportunity to be heard. Minneapolis & St. Paul Sub. R. Co. v. V., 186M573, 244NW61. See Dun. Dig. 8082.

To become a complainant in a proceeding before the Railroad and Warehouse Commission under Motor Vehicle Transportation Act so as to have an appeal from commission's order go to district court of county of person's residence, a verified complaint, with parties designated as prescribed by §§4638 and 4644, must be filed with commission. Murphy Motor Freight Lines v. W., 191M49, 253NW1. See Dun. Dig. 8082.

Where commission on its own motion instituted proceeding, appeal from order made was properly taken to district court of one of counties wherein appellant was ordered to cease his transportation operations. Id.

**4651. Proceedings on appeal—Orders not appealed from.**

172M601, 215NW188.  
Findings of fact of Railroad Commission are prima facie correct on appeal. 177M136, 225NW94.  
An order of the railroad commission for the separation of grades at highway crossings is prima facie valid, the burden of proof being upon appellant, and the question being a judicial one for determination of whether the order is lawful and reasonable, the suit is of a civil na-

ture and is removable to the federal court by the railroad company though such company initiated the proceedings before the commission, but the city took an appeal and thus assumed the position of a plaintiff in the controversy. Chicago, M. St. P. & P. R. Co., (DC-Minn), 50F(2d)430. See Dun. Dig. 1589, 8082, 8389.

On the trial of an appeal from an order of the railroad and warehouse commission to district court, findings of commission are prima facie evidence of facts and its order prima facie reasonable. Minneapolis & St. Paul Sub. R. Co. v. V., 186M563, 244NW57. See Dun. Dig. 8082.  
Issue of confiscation as to telephone rates must be submitted to a judicial tribunal for determination upon its own independent judgment as to both law and facts. Western Buse Telephone Co. v. N., 188M524, 248NW220.

On appeal from order of railroad and warehouse commission, burden is on appellant to show that finding of commission is not supported by evidence. Hallett Const. Co. v. F., 191M335, 254NW435. See Dun. Dig. 8082a.  
There is no requirement for service of notice of appeal itself upon adverse parties. Op. Atty. Gen., Jan. 16, 1934.

**4657. Costs and attorney's fees.**

Attorney's fees were properly allowed. 177M136, 225NW94.

**4659. Appeals to Supreme Court.**

172M601, 215NW188.  
Where district court has reversed a rate-fix-order of railroad and warehouse commission, an appeal by state and applicant does not stay entry of judgment unless so directed either by this court or district court. State v. Dist. Court., 189M487, 250NW7. See Dun. Dig. 8082a.

**4662. Dangerous crossings.**

The Railroad and Warehouse Commission may require the construction of an overhead or underground crossing and divide the cost between the railroad company and the highway department. Where a highway is carried over railroad tracks by a bridge, the railroad company may be required to construct the bridge and the approaches, but not a part of the highway outside both bridge and approaches. 176M501, 223NW915.

**4663. Report and order—Flagmen, etc.**

176M501, 223NW915.  
Cost of changes of grade of streets and width of roadways and corresponding changes of viaducts or bridges over railroad tracks, occasioned by growth of city, may be divided between the city and the railway. 178M193, 226NW470.

City could not require railroad without compensation to open up street across its right of way. Op. Atty. Gen., Oct. 31, 1930.

Commission has authority to entertain petitions before officials in charge of proposed highway establish it. Op. Atty. Gen., Feb. 23, 1933.

If track scales are used by a common carrier for purpose of weighing carload freight, billing for cost of testing by commission should be to common carriers using the scales and not owner of warehouse or elevator. Op. Atty. Gen. (371b-2), July 5, 1934.

**4667. Charter powers not abridged.**

This section is qualified and limited by Mason's Stat. 1927, §4743, subd. 12. Op. Atty. Gen., Apr. 16, 1929.

**4673. Track scales—Powers of commission.**

Master track scale at Minnesota Transfer may not be insured. Op. Atty. Gen. (252k), Feb. 21, 1935.  
Commission has no jurisdiction over the matter of stencilling of weights on freight cars. Op. Atty. Gen. (371b-8), June 12, 1935.

**4679. Duty of commission.**

Coal must be weighed at distributing points unless used or consumed by shipper. Op. Atty. Gen. (371b), Aug. 30, 1934.