

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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CITER- DIGEST CO.  
SAINT PAUL, MINNESOTA.  
1934

## CHAPTER 28A

## Department of Weights and Measures

**5276. Duties and powers of department.**

175M276, 221NW6.

**INSPECTION OF METERS AND DEVICES FOR MEASURING OF ELECTRICITY, GAS AND WATER**

**5285-1. Inspection and test by railroad and warehouse commission—Petition for by residents of municipalities—Fees—Sealing and labeling devices.**—The railroad and warehouse commission shall have power to inspect and test all meters, mechanical devices and measures of every kind, and tools, appliances and accessories connected therewith, used, employed, kept, sold or offered or exposed for sale within this state for the purpose of measuring the amount, quantity or extent of electricity, gas or water furnished, sold or distributed to the public by any person, association, corporation or municipality except cities of the first class having, or which may hereafter have meter inspection departments. Upon petition of at least 10 consumers of electricity, gas or water within the territorial limits of any municipality and upon the deposit with the clerk of such municipality by each of such consumers of a fee of 25 cents for each such meter, mechanical device and measure installed or used upon the premises of each such petitioning consumer, the governing body of such municipality may request the commission to make an inspection and test of all such meters, mechanical devices and measures upon the premises of such petitioning consumers. Thereupon the commission, within a reasonable time after the receipt by it of such request shall proceed

to make an inspection and test of all such meters, mechanical devices and measures upon the premises of all such petitioning consumers and upon the premises of all other consumers within such municipality who, at the time of such inspection and test, shall have deposited with the clerk of such municipality said fee of 25 cents for each such meter, mechanical device and measure upon the premises of such consumers. All such fees collected by the clerk of any such municipality shall be remitted by such municipality to the commission within 30 days of the completion of such inspection and test, and deposited to the credit of the Weights and Measures fund. All such meters, mechanical devices and measures found, upon inspection, to be correct and accurate, shall be sealed with proper devices to be approved by the commission. The commission, or any of its employes, shall condemn, seize and destroy all incorrect and inaccurate meters, mechanical devices and measures which, in the judgment of the commission, cannot be satisfactorily repaired; and such as are incorrect and inaccurate and yet may be repaired, shall be marked as "Condemned for Repair," in the manner to be prescribed by the commission. The owners of such meters, mechanical devices and measures which have been so "Condemned for Repair," shall have the same repaired and corrected within 30 days; and such meters, mechanical devices and measures shall not be disposed of without the consent of the commission. In the general performance of its duty the commission, or any of its employes, may enter or go into or upon any premises, building, stand or place at all reasonable times. ('27, c. 291, §1 [Eff. July 1, 1927, by §3]; Mar. 27, 1931, c. 98.)

## CHAPTER 28A-1

## Telephone Companies

**5289. Rates to be fair and reasonable.**

Co-operative farm line telephone companies are under jurisdiction of commission as provided in this section. Op. Atty. Gen., Mar. 2, 1933.

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.*, 248NW220.

In determining rates, rural subscribers are not entitled to have considered profits made from advertisement in telephone directories. *Id.*

**5290. Schedule of rates, etc.**

Interstate business of telegraph and telephone companies comes under the federal law regulating commerce (Mason's U. S. Code. Title 49, Chap. 1.). 173M424, 217NW386.

**5291. Commission to fix reasonable rates.**

*Western Buse Telephone Co. v. N.*, 248NW220; note under §5296.

**5295. Connections between telephone companies not discontinued.**

In determining whether one is guilty of an offense under §5310 in severing the connection between a company's exchange and the rural telephone company, the fact that the connection was made under private arrangements and not pursuant to an order of the Railroad and Warehouse Commission would be immaterial. Op. Atty. Gen., April 7, 1931.

A nonstockholder served by co-operative farm line telephone company has no enforceable right where majority of stockholders disconnect line from exchanges of other companies. Op. Atty. Gen., Mar. 2, 1933.

**5296. Telephone companies required to permit physical connection.**

Right to compel physical connection between telephone companies rests entirely in statutory law. *Western Buse Telephone Co. v. N.*, 248NW220.

Any rate for switching services between telephone companies is confiscatory if insufficient to constitute reasonable return on value of property used and services required. *Id.*

A sound method of apportionment of property jointly used in switching services is to base apportionment upon use which includes volume of traffic. *Id.*

Commission may disregard its own rules, which provide a method of determining cost of service stations' switching, when they are found inadequate or obsolete. *Id.*

Value of use is not shown by gross earnings. *Id.*

Neither joint property nor joint traffic expense can be apportioned on the per circuit basis. *Id.*

Testimony by competent valuation experts who have recently examined property and made estimates is preferable to mere calculations based on averages and assumed probabilities based on official reports. *Id.*

First step in arriving at value of telephone plant, or any public utility, is to ascertain its reproduction cost new, less depreciation. *Id.*

Depreciation is that diminution in value of property which takes place in physical thing and is ascertained by physical inspection. *Id.*

Depreciation which has been overcome by repairs and replacements is not considered. *Id.*

In fixing rate, company is entitled to any increase in value of property since it was acquired, but must stand loss of any shrinkage in value. *Id.*

Profits of the past cannot be used to sustain confiscatory rates for future. *Id.*

Rural companies receiving switching services are not entitled to credit for use of their lines and facilities by local exchange. *Id.*

Fact that company owning local exchange also owns toll lines occupying positions on its switchboard does not entitle rural subscribers to have toll lines share in expense incurred by exchange back of switchboard so as to, in any way, affect rates to be paid by them. *Id.*