

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.



Edited by  
**William H. Mason**  
*Assisted by*  
**The Publisher's Editorial Staff**

MASON PUBLISHING CO.  
SAINT PAUL, MINNESOTA  
1940

transfer said township telephone system to any telephone company, person or persons giving service organized for that purpose and qualified to purchase said system and operate the same, the said board or supervisors shall have authority to sell, transfer, and convey said township telephone system upon such reasonable price and terms as it may determine, provided, that there shall be presented to the board of supervisors by a petition signed by at least twenty-five per cent of the freeholders of said township asking the sale thereof, and, if such sale and agreed sale price be approved at an annual or special town meeting, it being stated in the notice of such annual and special meeting that the proposition will be considered thereat, by sixty-six per cent of the legal voters attending such meeting.

If any township telephone lines are sold under the provisions of this act, and the township has theretofore issued bonds for the construction thereof, and any part of said bonds are then outstanding and unpaid; the entire consideration received from the sale, or such part as may be necessary, shall be held and applied only for the payment and retirement of such bonds. ('21, c. 439, §7; Apr. 11, 1929, c. 150, §1.)

A town board is without power to give away an interest which it has purchased in an adjoining exchange. Op. Atty. Gen., Aug. 6, 1931.

**5319. Town boards to manage.**—The town board of supervisors of any such township is hereby vested with all necessary authority to manage, maintain and operate any township telephone system constructed under the provisions of this act, and, to that end, may, among other things, contract for the connection of such township lines with exchanges owned by others for switching, lease the system for a reasonable compensation, local exchange and toll connections, hire and discharge such employees as may be necessary to operate and maintain such township system, establish rules and regulations, and, subject to the approval of the railroad and warehouse commission establish and from time to time change rates and charges, covering the service furnished to the users. ('21, c. 439, §8; Apr. 11, 1929, c. 150, §2.)

Town board may cancel out and refuse to connect with another exchange and operate its telephone service by house to house calls without a central exchange connection. Op. Atty. Gen., Aug. 6, 1931.

Town board has no authority to use the road and bridge fund to keep up the operating expenses of a township telephone company organized under State Fire Protection law. Op. Atty. Gen., Aug. 6, 1931.

One of three connected towns could not cut off the other towns. Op. Atty. Gen. (371b-13), May 14, 1936.

Town meeting or town board may permit persons other than town treasurer and clerk to handle collection of toll charges and fixed rentals. Op. Atty. Gen. (434a-8), Mar. 25, 1938.

## CHAPTER 28B

### Department of Banking—Division of Banking in Department of Commerce

#### 5320. Department established.

Banking division of department of commerce created pursuant to Laws 1909, c. 201, as amended by Laws 1925, c. 426, art. 8, is a department of state government within meaning of §9677-1, and legislature contemplated administration of amount of fidelity bond for those for whom legislature has not fixed amount. Op. Atty. Gen. (980a-8), May 5, 1937.

#### 5321. Superintendent of banks—Term—Qualifications—Bond.

It is not necessary that a formal commission of appointment be issued to acting commissioner of bank. Op. Atty. Gen. (29a-6), July 14, 1939.

#### 5323. Powers and duties of superintendent.

179M217, 228NW926.  
Duluth Morris Plan Company comes within provisions of section and gives commissioner of banks power and duty to safeguard rights of those dealing with it. Op. Atty. Gen., Jan. 19, 1933.

Whether Duluth Morris Plan Company may purchase of its own stock to hold for resale is a matter resting within discretion of commissioner of banks. Op. Atty. Gen., Jan. 19, 1933.

Where a variable clause appears in certificate of incorporation, commissioner of banks may insist on adoption of by-law fixing definite number of directors. Op. Atty. Gen. (29a-13), June 2, 1937.

#### 5324. Supervision over banks and other financial corporations.

179M217, 228NW926.  
Op. Atty. Gen., Jan. 19, 1933; note under §5323.

#### 5325. Refusal to obey directions of examiner.

One is not excused by the absence of guilty knowledge or intention and his consequent moral innocence. 178M9, 225NW927.

This section applies whether the duty violated was imposed by the action of 1909 or by a prior statute. 179M217, 228NW926.

The offense consists in knowingly and intentionally or negligently failing to report, and it is error to reject evidence tending to show good faith and lack of knowledge that the report was false. 179M217, 228NW926.

Offense, held committed in Isanti County though report was sent by mail to Commissioner in Ramsey County. 179M217, 228NW926.

Rulings on evidence considered. 179M217, 228NW926.

#### 5327. Employes in office of superintendent of banks.

Legislature intended to fix amount of fidelity assurance of deputy and twelve examiners, leaving amount

of bond for assistant and second assistant examiners to determination of administration, after passage of §9677-1. Op. Atty. Gen. (980a-8), May 6, 1937.

**5328. State bank examiners or employees prohibited from holding bank stock.**—No person who is a bank examiner or other officer or employee of the division of banking of the department of commerce of this state shall be interested, either directly or indirectly, as a stockholder, director, officer, trustee, assignee, employee, or otherwise, in any bank, savings bank, trust company, financial institution, or corporation holding the stock of any such a corporation within this state, or which carries on a banking business within this state, either directly or indirectly, or through an affiliated group or chain bank operating within this state. If the wife, or any other member of the household of a bank examiner or other officer or employee shall be so interested, it shall be conclusively presumed that said bank examiner or other officer or employee is indirectly interested in the corporation within the meaning of this act; but the meaning of the words "directly or indirectly" is not otherwise qualified. The provision of this section shall not apply to the Commissioner of Banks. ('15, c. 164, §1; Mar. 7, 1931, c. 43, §1.)

**5328-1. Penalty for violation.**—Any person violating the provisions of this act shall be disqualified from holding any office or employment in the division of banking of the department of commerce, and shall be removed from such office or employment by the commissioner of banks immediately upon knowledge of such violation. (Act Mar. 7, 1931, c. 43, §2.)

**5332. Fees for examination of financial institutions.**—Each bank, trust company, savings bank, local or general building and loan association and credit union organized under the laws of this state, shall pay into the state treasury for each authorized regular or special examination made at any time by the commissioner of banks of such institution, a fee to be determined as follows:

In the case of state banks, trust companies, or savings banks, for each examination a minimum fee of

\$40.00 plus an amount equal to three cents for each \$1,000 of assets in excess of \$25,000, and not exceeding \$300,000; where the assets exceed \$300,000 and do not exceed \$500,000, a minimum fee of \$50.00, plus three cents for each \$1,000 of assets in excess of \$25,000; where the assets exceed \$500,000 and do not exceed \$1,000,000, a minimum fee of \$60.00 plus three cents for each \$1,000 of assets in excess of \$25,000; where the assets exceed \$1,000,000 and do not exceed \$3,000,000, a minimum fee of \$80.00, plus three cents for each \$1,000 of assets in excess of \$25,000; where the assets exceed \$3,000,000, a minimum fee of \$100.00, plus three cents for each \$1,000 of assets in excess of \$25,000 up to \$5,000,000, and two cents per thousand for each \$1,000 of assets in excess of \$5,000,000, and in the case of trust companies an additional amount equal to two cents for each \$1,000 value of properties held in trust for the benefit of others.

In the case of local building and loan associations, for each examination, a minimum fee of \$25.00, plus an amount equal to 2 cents for each \$1,000 of assets in excess of \$15,000.

In the case of credit unions a fee of \$10.00 where the assets do not exceed \$2,000; a fee of \$15.00 where the assets exceed \$2,000 and do not exceed \$4,000; a fee of \$17.00 where the assets exceed \$4,000 and do not exceed \$6,000; a fee of \$20.00 where the assets exceed \$6,000 and do not exceed \$8,000; a fee of \$25.00 where the assets exceed \$8,000 and do not exceed \$10,000; a fee of \$30.00 where the assets exceed \$10,000 and do not exceed \$15,000; a fee of \$35.00 where the assets exceed \$15,000 and do not exceed \$20,000; a fee of \$40.00 where the assets exceed \$20,000 and do not exceed

\$25,000; and where the assets exceed \$25,000, a minimum fee of \$40.00, plus 10 cents for each \$1,000 of assets in excess thereof.

Said fees shall be paid by the institution examined within twenty days after a statement of the amount thereof shall have been rendered the institution examined by the commissioner of banks, and if not so paid shall bear interest at the rate of six per cent per annum. (As amended Apr. 17, 1937, c. 276, §1.)

Sec. 2 of Act Apr. 17, 1937, cited, provides: "all acts or parts of acts inconsistent herewith are hereby repealed."

**5332-1. Examiners powers enlarged.**—The examiner in charge of liquidation in the banking division of the department of commerce is hereby authorized to sign the name of the commissioner of banks and to act for him in all matters connected with the liquidation of insolvent corporations under the supervision and control of the commissioner of banks, with the same force and effect as though the commissioner himself had signed or acted. Provided, that said examiner shall have no authority to order an assessment against the stockholders of an insolvent state bank or trust company under the provisions of Laws 1927, Chapter 254 [§§7699-20 to 7699-247]. (Act Apr. 9, 1931, c. 137.)

Examiner in charge of liquidation may sign examiner's name, including affidavits incident to borrowing of money from Reconstruction Finance Corporation. Op. Atty. Gen., Jan. 22, 1934.

**5334. Certain securities to be deposited with State treasurer.**

Securities deposited with commissioner of banks by national bank desiring to act in a fiduciary capacity must be redeposited with state treasurer. Op. Atty. Gen., Jan. 13, 1934.

## CHAPTER 29

### Public Health

#### 5337. Meetings—Officers—Quorum.

Official bonds of secretary of department of health should be referred to commission of administration and finance for approval, and continuation certificate should not be approved, such bonds should be cumulative. Op. Atty. Gen. (45a), May 7, 1937.

#### 5339. General duties of board—Reports.

Op. Atty. Gen., June 28, 1933; note under §5345.  
Division of hotel inspection cannot compel all places of business serving food and refreshments to be equipped with hot and cold running water and to have their sinks connected with a sewer, nor ordering separate toilet rooms for both sexes in restaurants and places of refreshment, but it can order restaurants and places of refreshment, to install two tanks behind bars to sterilize glasses and provide proper drain for glasses if such requirements are necessary for proper sterilization. Op. Atty. Gen. (238d), Oct. 24, 1935.

#### 5345. State board of health, general and special rules.

Op. Atty. Gen., June 20, 1933; note under §9580.  
Resolution by state board of health that plans and specifications must be prepared by person not prohibited from doing so under Laws 1933, c. 404, is not bound to act according to such resolution, it being merely a declaration of policy. Op. Atty. Gen., June 28, 1933.

City may not construct a swimming pool until plans and specifications are approved by the state board of health. Op. Atty. Gen. (225m), Apr. 30, 1935.

Court will not take judicial notice of health regulations. Op. Atty. Gen. (225b-4), May 21, 1935.

Health department has authority to return and quarantine tubercular patient in hospital or sanatorium. Op. Atty. Gen. (225f-1), Aug. 30, 1935.

Plans and specifications of sewage disposal plant of a metropolitan drainage district are to be approved by state board of health. Op. Atty. Gen. (225m), June 1, 1935.

Under regulation 200 adopted by state board of health, department may pass upon plans submitted to it and approve or disapprove, though plans are prepared by an engineer who is not qualified under state law. Op. Atty. Gen. (255m), June 3, 1937.

Establishing, enforcing and releasing quarantine constitutes control of communicable disease and is a purely public charge payable in first instance by town or village, which may in turn recover one-half from county, but disease control measures necessary for public protection but which also benefit patients, such as vaccination, antitoxin, hospitalization, are primarily liability of patient, but may be allowed as public charge when all possible efforts to secure payment by responsible individual have failed. Op. Atty. Gen. (611a-1), June 16, 1939.

(7).  
A venereal disease is a communicable disease and expense and care of a pauper family afflicted with such disease should be divided equally between village and county, and municipality should first pay such expense and apply to county for reimbursement of half thereof. Op. Atty. Gen. (225f-3), Nov. 14, 1934.

(8).  
Board of control cannot administer toxin-antitoxin and scarlet fever serum without obtaining consent of relatives of children committed to home school for girls. Op. Atty. Gen., Mar. 24, 1934.

School district funds cannot be used to vaccinate school children to prevent spread of small pox during an epidemic. Op. Atty. Gen. (611a-9), Feb. 1, 1935.

(10).  
A death certificate is not conclusive proof of cause of death. *Jorstad v. B.*, 196M568, 265NW814. See *Dun. Dig.* 3348.

#### 5348. Local boards—Health officers.

Member of town board may receive compensation as health officer as well as member of board. Op. Atty. Gen., Feb. 7, 1929.

Town board cannot appoint as health officer one who is not a duly licensed physician. Op. Atty. Gen., Apr. 16, 1931.

Action of voters at town meeting in attempting to elect a health officer is nugatory. Op. Atty. Gen., Apr. 16, 1931.

Village is not compelled to establish its own board of health but where it does establish one, village is liable for costs and expenses lawfully incurred under its direction. Op. Atty. Gen., Apr. 28, 1932.

Where village has no board of health, it is, nevertheless, liable for costs and expenses lawfully incurred un-