

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.

Edited by  
the  
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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.*, 210M88, 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. 450, §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 employees, 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.

It is up to the state senate to determine whether or not its members absent in armed forces may receive their compensation. Op. Atty. Gen. (280d), Jan. 22, 1943.

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.

**40. Members of Legislature excused from court duties.**—No member or officer of, or any attorney employed by the Legislature shall be compelled to attend as a witness in any court of this state during the session of the Legislature; unless the court in which the action is pending upon sufficient showing shall otherwise order with the consent of the presiding officer of the body of which such witness is an employe or the consent of the body of which such witness is a member. No cause or proceeding, civil or criminal, in court or before any commission or officer or referee thereof or motion or hearing therein, in which a member or officer of, or any attorney employed by the Legislature is a party, attorney or witness shall be tried or heard during such session of the Legislature, but shall be continued until the Legislature shall have adjourned. Such member or officer of, or attorney employed by the Legislature may, with the consent of the body of the Legislature of which he is a member or officer, or employed by, waive such privilege and in such case such cause or proceeding, motion, or hearing may be tried or heard as such time as will not conflict with legislative duties. (As amended Act Mar. 4, 1941, c. 45, §1.)

#### AMENDMENTS TO THE CONSTITUTION

**46. Notice publication.**—At least four months preceding such election, the attorney general shall furnish to the secretary of state a statement of the purpose and effect of all amendments proposed showing clearly the form of the existing sections, and of the same as they will read if amended, except that when any section to which an amendment is proposed exceeds 150 words in length, the statement shall show that part of the section in which a change is proposed, both in its existing form and as it will be read when amended, together with such portions of the context as the attorney general deems necessary to an understanding of the proposed amendment. Prior to the election, the secretary of state shall give three weeks published notice of such statement in all legal newspapers of the state. The secretary of state shall furnish such statement in plate form to such newspapers, the expense of which shall be borne by said newspapers. The maximum rate for such publication shall be 25 cents per folio for each of the three publications, but shall not exceed \$50.00 for each newspaper unless the publication exceeds 80 inches in length, in which case the excess shall be paid for at the rate of 15 cents per inch for each publication thereof. Provided, that daily newspapers having a bona fide circulation, not including exchanges or other complimentary circulation, of 10,000 shall receive 75 cents per folio for the first publication and 35 cents per folio for each of the two subsequent publications; not to exceed \$150.00 for each of such daily newspapers. Provided, however, that if any newspaper shall refuse the publication of said amendments such refusal and failure of the publication shall have no effect on the

validity of such amendments. He shall also forward to each county auditor a number of copies of such statement, in poster form, sufficient to enable him to supply at least six of such copies for each election district of his county. The auditor shall furnish such copies to the town, village and city clerks, who shall give three weeks posted notice thereof, and cause one copy to be conspicuously posted at each polling place on election day. Willful or negligent failure by any official named to perform any duty imposed upon him by this section shall be deemed a misdemeanor. (As amended Apr. 9, 1941, c. 136, §1.)

Statement by attorney general of purpose and effect of amendment to constitution proposed by Laws 1939, chapter 447. Op. Atty. Gen., (86a-38), Feb. 6, 1940.

#### PROMOTION OF UNIFORMITY OF LEGISLATION

##### 50. Uniformity of legislation. [Repealed.]

Repealed, Laws 1943, c. 348, §5.

**50-1. Commission on uniform state laws created.**—A commission on uniform state laws in the several states of the United States is created. Before the first day of June, each odd-numbered year, the governor, the attorney general, and the chief justice of the supreme court shall appoint three persons learned in the law to serve as commissioners for a term of two years, and until their successors are appointed. If a vacancy occurs in the commission the appointing officers shall fill the vacancy for the remainder of the term. (Act Apr. 9, 1943, c. 348, §1.) [3.251]

**50-2. Commissioners to represent state.**—The commissioners shall represent this state in the National Conference of Commissioners on Uniform State Laws; examine into legal subjects on which uniformity of legislation in the different states is desirable; ascertain the best means to effect uniformity; represent Minnesota in conventions of like commissioners of other states; cooperate in the consideration and drafting of uniform acts for submission to the legislatures of the several states; prepare bills adapting such uniform acts to our statutes for introduction in the legislature. The commission shall keep a record of all its transactions and report its activities and recommendations to the legislature at the beginning of each biennial session and may so report and recommend at any other time. (Act Apr. 9, 1943, c. 348, §2.) [3.252]

**50-3. To serve without compensation.**—The commissioners shall serve without compensation for services as commissioners. (Act Apr. 9, 1943, c. 348, §3.) [3.253]

**50-4. Present commissioners to serve until their successors are appointed.**—The commissioners serving at the time this act takes effect are to continue in office until their successors are appointed. (Act Apr. 9, 1943, c. 348, §4.) [3.254]

**50-5. Law repealed.**—Mason's Minnesota Statutes of 1927, Sections 50, 51, 52, 53 are hereby repealed. (Act Apr. 9, 1943, c. 348, §5.)

##### 51 to 53. [Repealed.]

Repealed. Laws 1943, c. 348, §5.