

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

of the commissioner made pursuant to the provisions of this act, or restrain the violation or attempted violation of any of the provisions of this act. The Attorney General of Minnesota shall act as legal advisor to the commissioner. (Apr. 26, 1937, c. 468, §14.)

**6602-65. Commissioner to appear for state in federal hearings.**—The commissioner may appear, and represent and act for the state in any matter relating to any application to be made to the federal government or to any of its officers, boards or commissioners for permit to develop or use water power in the state and may do and perform such acts in connection therewith as he deems proper to protect the interests of the people of the state consistent with the provisions of the act. (Apr. 26, 1937, c. 468, §15.)

**6602-66. Dams to be maintained by state.**—All dams owned by the state or erected upon lands owned by the state or for which the state has acquired permanent easement shall be maintained by the state from funds appropriated by the legislature directly for such purpose or from such other sources as may be provided by law. The commissioner is authorized to accept from local governmental and civic agencies, or persons, funds for the purpose of maintaining such dams and appurtenant or control structures. (Apr. 26, 1937, c. 468, §16.)

**6602-67. Not to affect existing contracts.**—Nothing herein shall apply to existing contracts with or permits, grants, or other authorizations by this state, any other state or the federal government for the appropriation, use or diversion of public waters, nor shall apply to existing dams, reservoirs, or control structures, owned, leased, or operated by municipalities, individuals, private corporations or commercial companies operated for the production of power, except as may be necessary in emergencies to protect the health and safety of the people of the state. (Apr. 26, 1937, c. 468, §17.)

**6602-68. Inconsistent acts repealed.**—All acts and parts of acts inconsistent herewith are hereby superseded, modified, or amended, so far as necessary, to give effect to the provisions of this act except that nothing in this act shall be construed so as to inter-

fere with the exercise of the lawful jurisdiction of the government of the United States or its duly constituted agencies over the waters of the state and provided that nothing in this act shall in any way supersede, alter, or amend the provisions of Mason's Minnesota Statutes, 1927, Chapter 40, Section 6463, and Chapter 412, Laws 1933. (Apr. 26, 1937, c. 468, §18.)  
This section did not repeal §10437. Op. Atty. Gen. (273c-1), July 29, 1938.

**6602-69. Provisions severable.**—The various provisions of this act are declared to be severable. If any provisions thereof shall be declared unconstitutional the remaining provisions shall remain in full force and effect. (Apr. 26, 1937, c. 468, §19.)

#### COMMON LAW DECISIONS RELATING TO WATERS AND WATER COURSES IN GENERAL

##### 1. Use of water.

Use made of water of lake by golf club for sprinkling golf course, maintained by it on its premises bordering on lake solely for pleasure and recreation of its members, was not for any commercial or artificial use or purpose, and was not unlawful or unreasonable. *Meyers v. L.*, 197 M241, 266NW861. See Dun. Dig. 10177.

##### 2. Riparian rights.

Riparian rights exist before premises are improved or occupied, and cannot be infringed without compensation by anyone other than the state or the United States in the exercise of its paramount right to make improvements in aid of navigation. *Pike Rapids Power Co. v. M.*, (CCA8), 99F(2d)902.

Riparian rights include right to use of water and of access, right to build and maintain wharves, piers and landings extending into the river to point of navigability, and right to unobstructed flow of water in front of owner's premises. *Id.*

Riparian rights are subordinate to the rights of the public for the purposes of navigation, fishing, skating and all other public uses. *Id.*

Railroad authorized to build bridge over the Mississippi River by the Soo Bridge Act (34 U. S. Stat. 868) held not to stand in the same position as the government with respect to using the bed of the river without compensating riparian owners. *Id.*

At common law owner of land bordering on a navigable stream has exclusive appurtenant riparian rights to the use of the bed of the stream adjacent to his land and to the use of the water flowing thereover. *Id.*

Congress is without power to destroy riparian rights unless necessary to regulate commerce. *Id.*

What can a riparian proprietor do? 21MinnLawRev 512.

## CHAPTER 43

### Logs and Lumber

#### 6604. Duty of surveyor general.

Authority to scale state timber is still vested in the surveyor general of logs and lumber, but is now subject to supervision of commissioner of conservation and director of division of forestry instead of state auditor. Op. Atty. Gen., June 27, 1933.

#### 6613. Posting scales—Scribner's rule, etc.

Scribner rule prescribed by statute and not revised Scribner Decimal C log rule is to be used by surveyor general when not otherwise agreed on. Op. Atty. Gen., Dec. 4, 1933.

Contracting private parties need not consider legal rule in purchase or sale of logs, law not requiring official scaling in private sale. *Id.*

In private sale of logs, in case log rule has not been agreed upon, true quantity and log scales made by competent persons would be best available evidence, but any scaling done by surveyor general would constitute strong showing to court. *Id.*

#### 6627. Transfers—Logs, etc., when deemed abandoned.

Surveyor general of logs and lumber may need to remove the dead-head logs and other timber endangering navigation, using funds provided therefor by the state emergency relief administration. Op. Atty. Gen. (429), Aug. 19, 1935.

## CHAPTER 44

### Drainage

#### STATE DRAINAGE COMMISSION [DEPARTMENT OF DRAINAGE AND WATERS]

#### 6634. Department of drainage and waters.

Laws 1931, c. 186, ante, §§53-23a to 53-23i, creates the Department of Conservation and transfers to it the powers of the Department of Drainage and Waters.

**6635. Powers of commissioner of drainage and waters.**—Subd. (a). The commissioner of drainage and waters established by this act, shall have power to con-

struct as hereinafter provided, any ditch, drain or other watercourse within the State of Minnesota, and such ditch, drain or other watercourse may in whole or in part follow and consist of the bed of any creek, stream or river, whether meandered or not, and he may widen, deepen, straighten, change, lower or drain the channel or bed of any creek, river, lake or other natural watercourse, whether navigable or whether meandered or not, and may construct new and addi-