

# MASON'S MINNESOTA STATUTES

1927

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BY THE SUBSEQUENT LEGISLATION OF 1925  
AND 1927

AND ALSO EMBRACING LAWS OMITTED FROM THE GENERAL STATUTES  
1923, AND THE LAWS OF THE 1925 AND 1927 SESSIONS OF THE  
LEGISLATURE UNDER APPROPRIATE CLASSIFICATION.

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PART IV.

CRIMES, CRIMINAL PROCEDURE, IMPRISONMENT, AND PRISONS

CHAPTER 93

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9906. Crimes defined and classified—A crime is an act or omission forbidden by law, and punishable upon conviction by death, imprisonment, fine, or other penal discipline. Every crime which may be punished by death, or by imprisonment in the state prison or state

reformatory, is a felony. Every crime punishable by fine not exceeding one hundred dollars, or by imprisonment in a jail for not more than ninety days, is a misdemeanor. Every other crime is a gross misdemeanor. (4747) [8466]

1. Definition of "crime," "offense," "misdemeanor"—The terms "crime," "offense" and "criminal offense" are all synonymous, and include any breach of law established for the protection of the public, as distinguished from an infringement of mere private rights, for which a penalty is imposed or punishment inflicted in any judicial proceeding (42-147, 43+345). The term "offense" in criminal law, is not identical in meaning with the word "act." It imports, in its legal sense, an infraction or transgression of a law—the wilful doing of an act which is forbidden by a law or omitting to do what it commands (26-507, 517, 5+959). It includes any punishable violation of law—the doing that which a penal law forbids or omitting to do what it commands—and hence includes all violations of municipal ordinances punishable by fine or imprisonment (34-1, 24+458). It includes misdemeanors (42-258, 44+115). It does not include violations of the military code (74-518, 77+424). When an offense is not a felony it is necessarily a misdemeanor (39-153, 39+305).

2. Acts punishable under general law and ordinance—An act may be punishable under both the general law and a municipal ordinance and the punishment need not be the same (16-474, 426; 21-202; 26-507, 5+959; 36-62, 30+305; 42-147, 43+345; 50-128, 52+387; 77-540, 80+701; 84-367, 87+916). In such a case a conviction under the ordinance is not a bar to a prosecution under the general law (29-445, 13+913; 50-128, 52+387).

3. Acts punishable by federal and state authority—An act may be at the same time an offence against the United States and against the state (26-507, 5+959; 29-445, 13+913).

4. Acts constituting different offences—The same acts may constitute or be parts of different offences (10-407, 325); they may be offences under different statutes (69-423, 72+700).

5. Merger—There is no such thing as a merger of different offences (10-407, 325).

6. No common law offences—Prior to the Penal Code the common law as to crime was in force in this state except where abrogated or modified by statute (12-164, 99; 17-72, 50). The Code abolished all common law offences and now no act or omission is criminal except as prescribed by statute (38-368, 37+587; 39-153, 39+305; 71-28, 73+626). The common law may be referred to in aid of the construction of common law terms used in statutes (5-19, 6); but statutory definitions must control. The legislature has endeavored to do away with the refinements and technicalities of the common law and it is the duty of the courts to further the reform (2-124, 99; 5-19, 6; 38-368, 37+587). See 146-57, 177+937.

7. Felony. Unlawful transportation of liquor is not a felony. 157-145, 195+789.

9907. Meaning of words and terms—In the construction of Part IV, save when otherwise plainly declared or clearly apparent from the context, the following rules shall be observed:

1. Each of the words "neglect," "negligence," "negligent," and "negligently" shall import a want of such attention to the nature or probable consequences of the act or omission as an ordinarily prudent man usually exercises in his own business.

2. Each of the words "corrupt" and "corruptly"

shall import a wrongful desire to acquire or cause some pecuniary or other advantage to himself or another, by the person to whom applicable.

3. "Malice" and "maliciously" shall import an evil intent, wish, or design to vex, annoy, or injure another person, or to maltreat or injure an animal.

4. The word "knowingly" imports a knowledge that the facts exist which constitute the act or omission a crime, and does not require knowledge of its unlawfulness.

5. Whenever an intent to defraud constitutes a part of a crime, it is not necessary to aver or prove an intent to defraud any particular person.

6. The word "vessel" includes ships, steamers, and every boat or structure adapted to navigation, either upon lakes, rivers, or artificial waterways.

7. The word "signature" includes any memorandum, mark, or sign written with intent to authenticate any instrument or writing, or the subscription of any person thereto.

8. The word "writing" shall include printing.

9. The word "property" includes both real and personal property, things in action, money, bank bills, and every other thing of value.

10. The word "oath" includes an affirmation; the word "bond," an undertaking; words in the present include the future tense; and in the masculine include the feminine and neuter genders; and in the singular include the plural; and in the plural, the singular.

11. The word "person" includes a corporation or joint-stock association. Whenever it is used to designate a party whose property may be the subject of any offense, it also includes the state, or any other state, government, or country which may lawfully own property within the state.

12. The term "real property" includes every estate, interest, and right in lands, tenements, or hereditaments.

13. The term "personal property" includes every description of money, goods, chattels, effects, evidences of rights in action, and all written instruments by which any pecuniary obligation, right, or title to property, real or personal, is created, acknowledged, transferred, increased, defeated, discharged, or diminished, and every right and interest therein. (4748) [8467]

Subd. 3 (127-510, 150+1209). Subd. 5 (27-309, 7+264; 43-196, 45+152; 67-176, 69+816). Subd. 10 (66-296, 68+1094). Subd. 11 (78-524, 81+532; 150-406, 185+931). Subd. 12 (91-482, 98+463). Subd. 13 (89-244, 94+686).

9908. Rules of construction—The rule that a penal statute is to be strictly construed shall not apply to any provision of Part IV of the Revised Laws, but every such provision shall be construed according to the fair import of its terms, to promote justice and effect the purpose of the law. (4749) [8468]

A criminal offence should not be created by an uncertain or doubtful construction (1-292, 226). A statute is ineffectual to make criminal an act otherwise innocent, unless it clearly appears that such act is within the prohibition of the statute, the statute being reasonably construed for the purpose of arriving at the expressed intention of the legislature. It is not enough that the case is within the apparent reason and policy of the statute (29-216, 12+703; 37-433, 34+904). A criminal statute is to have a reasonable construction and such as is best suited to accomplish the purposes to be arrived at, consistently with the meaning of the language used (33-102, 22+442. See 29-216, 12+703; 80-216, 83+141; 82-342, 85+12; 149-395, 184+12). The construction cannot be contrary to the language used (24-247), except in case of manifest mistake (29-216, 12+703; 82-71, 84+650). At common law penal statutes are construed strictly (1-292, 226; 26-191, 2+492; 29-216, 12+703. See 95-106, 103+728).

9909. Persons punishable—The following persons are liable to punishment:

1. A person who commits in the state any crime, in whole or in part.

2. A person who commits out of the state any offense which, if committed within it, would be larceny under the law, and is afterward found in the state with any of the stolen property.

3. A person who, being out of the state, causes, procures, aids, or abets another to commit a crime in the state.

4. A person who, being out of the state, abducts or kidnaps, by force or fraud, any person, contrary to the laws of the place where the act is committed, and brings, sends, or conveys such person into this state.

5. A person who, being out of the state, and with intent to cause within it a result contrary to its laws, does an act which, in its natural and usual course, results in an act or effect contrary to such laws. (4750) [8469]

9910. Defense of self or another, when justifiable—An act otherwise criminal is justifiable when done to protect the doer, or another whom he is bound to protect, from imminent personal injury, whenever such act appears to be only what is reasonably necessary to prevent the injury. (4751) [8470]

83-141, 144, 85+946; 96-318, 104+971.

9911. Defense of duress by married woman—It is no defense for a married woman charged with crime that the alleged act was committed by her in the presence of her husband. (4752) [8471]

9912. Duress—How constituted—Whenever any crime, except murder, is committed or participated in by two or more persons, any one of whom participates only under compulsion by another engaged therein, who by threats creates a reasonable apprehension in the mind of such participator that in case of refusal he is liable to instant death, such threats and apprehension constitute duress which will excuse such participator from criminal liability. (4753) [8472]

9913. Presumption of responsibility—Save as hereinafter specified, every person is presumed to be responsible for his acts, and the burden of rebutting such presumption is upon him. Children under the age of seven years, idiots, imbeciles, lunatics, or insane persons are incapable of committing crime. Children of seven and under twelve years of age are presumed incapable of committing crime, but this presumption may be removed by proof that they have sufficient capacity to understand the act or neglect, and to know that it was wrong. Whenever in legal proceedings it becomes necessary to determine the age of a child, he may be produced for inspection, to enable the court or jury to determine the age thereby; and the court may also direct his examination by one or more physicians, whose opinion shall be competent evidence upon the question of his age. (4754) [8473]

1. **Insanity**—Insanity is a matter of defence which the accused must prove by a fair preponderance of evidence; it is not enough for him to raise a reasonable doubt of his sanity (2-123, 99; 12-538, 448; 13-341, 315; 34-430, 28+397).

2. **Intoxication**—Irresponsible intoxication is a matter of defence which the accused must prove by a fair preponderance of evidence (29-221, 13+140; 93-38, 100+628).

3. **Children**—The testimony of a child over twelve years of age that he did not know that it was wrong to do the act constituting the crime will not, in the absence of any evidence as to his general mental capacity, tend to overcome the presumption of capacity to commit crime (53-541, 55+741). A child over twelve years of age is criminally liable (36-224, 90+360, 1133).

Child over twelve years of age is presumed to be responsible for his criminal acts. 156-181, 194+942.

9914. Intoxication or criminal propensity no defense

--No act committed by a person while in a state of voluntary intoxication shall be deemed less criminal by reason of his condition, but whenever the actual existence of any particular purpose, motive, or intent is a necessary element to constitute a particular species or degree of crime, the fact of his intoxication may be taken into consideration in determining such purpose, motive, or intent. A morbid propensity to commit prohibited acts existing in the mind of a person who is not shown to have been incapable of knowing that such acts were wrong shall constitute no defense. (4755) [8474]

1. **Intoxication**—No act committed by a person while in a state of voluntary intoxication is less criminal by reason of his having been in such condition (11-154, 95; 21-22; 29-221, 13+140; 93-38, 100+633). Thus it has been held that intoxication is no defence to a charge of double voting (21-22). But whenever the actual existence of any particular purpose, motive, or intent is a necessary element to constitute a particular species or degree of crime, the jury may take into consideration the fact that the accused was intoxicated at the time, in determining the purpose, motive, or intent with which he committed the act. Thus intoxication has been held admissible on a charge of assault with intent to do great bodily harm (11-154, 95; 21-22; 25-161; 28-426, 104+72; 29-221, 13+140); on a charge of larceny (21-22. See 74-460, 462, 77+302); on a charge of murder (13-341, 315; 21-22; 29-221, 13+140); and on a charge of passing counterfeit money (21-22). Intoxication cannot be considered by the jury unless it was of such a degree that the accused did not know what he was doing or could not distinguish right from wrong (11-154, 95; 13-341, 315; 25-161; 74-460, 462, 77+302). Where it appeared that a killing was intentional, or as a matter of revenge, it was held immaterial that the accused was intoxicated (13-341, 315). In no case can a defendant, by proof of intoxication, rebut the legal presumption that he knows and intends his voluntary acts (21-22).

2. **Criminal propensity**—13-341, 315; 41-365, 43+62.

9915. **Criminal responsibility of insane persons**—No person shall be tried, sentenced, or punished for any crime while in a state of idiocy, imbecility, lunacy, or insanity, so as to be incapable of understanding the proceedings or making a defense; but he shall not be excused from criminal liability except upon proof that at the time of committing the alleged criminal act he was laboring under such a defect of reason, from one of said causes, as not to know the nature of his act, or that it was wrong. (4756) [8475]

2-123, 99; 8-44, 26; 10-223, 178; 13-341, 315; 41-365, 43+62; 53-541, 55+741; 96-351, 105+265. Insanity is defense to action for divorce for cruel treatment, if acts were committed when defendant was laboring under such defect of reason as not to know nature of his acts or that they were wrong (119-139, 137+337).

9916. **Conviction of lesser crime, when**—Upon the trial of an indictment, the defendant may be convicted of the crime charged therein, or of a lesser degree of the same crime or of an attempt to commit the crime so charged, or of an attempt to commit a lesser degree of the same crime. In an indictment for an assault with intent to commit a felony, the jury, in case they do not find the intent charged, may convict of assault, and the court may sentence the defendant to imprisonment in the county jail for not more than one year, or to pay a fine not exceeding five hundred dollars. (4757) [8476]

Cited (119-107, 137+295). See 149-41, 182+721; 149-195, 183+143; 149-297, 183+669.

An assault, whether it be indecent or simple, is an essential and necessary element of the offense of attempting to commit the crime of carnal knowledge. 198+645.

Indictment charging carnal knowledge necessarily includes as lesser offenses: (1) Attempt to carnally know; (2) indecent assault or indecent liberties; and (3) simple assault. 157-408, 196+645.

9917. **Principal defined**—Every person concerned in the commission of a crime, whether he directly commits the act constituting the offense, or aids and abets in its commission, and whether present or absent, and

every person who directly or indirectly counsels, encourages, hires, commands, induces, or otherwise procures another to commit a crime, is a principal, and shall be indicted and punished as such. (4758) [8477]

This section abolishes the common law distinction between principals and accessories before the fact and under it all persons concerned in the commission of crime may be indicted and punished as principals (37-493, 35+373; 61-467, 63+1096; 84-357, 87+935; 85-19, 88+22; 122-493, 142+823; 148-368, 182+445). An accessory before the fact at common law defined (17-76, 54; 17-241, 218; 40-55, 41+299). One who gives a bribe is not an accomplice of the bribe-taker so that he can be convicted as a principal for bribery (71-23, 73+626). One who at common law would be accessory before the fact may be charged directly as principal, and evidence may be received to show that he procured the crime to be committed. Admission of such evidence is neither variance nor violation of Const. art. 1 § 6 (103-92, 114+363). Purchaser of intoxicating liquor sold contrary to law, for the purpose of prosecuting the seller for an unlawful sale, does not thereby become an accomplice (137-43, 162+683).

Killing incident to bank robbery. 158-516, 197+962.

Arson. 161-96, 200+933.

9918. **Accessory defined**—Every person not standing in the relation of husband or wife, parent or child, to the offender, who, after the commission of a felony, shall harbor, conceal, or aid such offender, with intent that he may avoid or escape from arrest, trial, conviction, or punishment, having knowledge or reasonable ground to believe that such offender has committed a felony or is liable to arrest, is an accessory to the felony. (4759) [8478]

In treason and misdemeanor there is no distinction between principals and accessories; all concerned in the commission of the offence are deemed principals, and indicted and punished accordingly (G. S. 1894, § 6312; 17-241, 218; 34-221, 25+395; 95-442, 104+556). Cited (144-348; 175+639).

9919. **Trial and punishment of accessories**—Every accessory to a felony may be indicted, tried, and convicted either in the county where he became an accessory, or where the principal felony was committed, and whether the principal offender has or has not been convicted, or is or is not amenable to justice, or has been pardoned or otherwise discharged after conviction; and, except where a different punishment is specially prescribed by law, such accessory shall be punished by imprisonment in the state prison or county jail for not more than five years, or by a fine of not more than five hundred dollars, or by both. (4760) [8479]

149-109, 182+962.

9920. **Certain duties of courts and juries**—Whenever a crime is distinguished into different degrees, the jury, on conviction, shall find the degree of which the accused is guilty. Whenever a crime is declared to be punishable in a specified way, the court shall pass sentence imposing the prescribed punishment; and, whenever the punishment is left undetermined between certain limits, the court shall determine the same within the prescribed limits. (4761) [8480]

On an indictment for a crime of which there are several degrees a general verdict of "guilty" is sufficient. It is necessary for the verdict to specify the degree only when the jury find a verdict for a lesser degree than the one charged (3-427, 313; 8-220, 190).

9921. **Punishment of felony when not fixed by statute**—Whoever is convicted of a felony for which no punishment is specially prescribed by any statutory provision in force at the time of conviction and sentence shall be punished by imprisonment in the state prison or a county jail for not more than seven years, or by a fine of not more than one thousand dollars, or by both. (4762) [8481]

69-508, 521, 72+799, 975; 90-526, 97+131, 213+56.

**9921-1. Minimum term of imprisonment for felony**—That the minimum penalty of imprisonment for any felony committed within this state shall be one year if the court in its discretion shall impose a state's prison or reformatory sentence therefor; provided, however, that the provisions of this act shall not apply to any offense where a greater minimum penalty of imprisonment is now or shall hereafter be prescribed by law for said offense. ('27, c. 306)

**9921-2. Felonies committed while armed with firearm—Additional punishment**—That if any person shall commit a felony, or attempt to commit a felony, while armed with a pistol, revolver, gun, or other firearm, with intent to use the same in the commission thereof, the penalty therefor, including any additional penalty which may be now or hereafter imposed by any law of this State for the commission of a crime of violence while armed with or having available any firearm, shall in the discretion of the trial judge be imprisonment for not less than five years; provided, that this Act shall not apply to reduce either the minimum or the maximum sentence now or hereafter provided by law for any offense for which the person has been convicted. ('27, c. 294)

**9922. Punishment of misdemeanors when not fixed by statute**—Whoever is convicted of a misdemeanor for which no punishment is prescribed by any statute in force at the time of conviction and sentence shall be punished by imprisonment in the county jail for not more than three months, or by a fine of not more than one hundred dollars. (4763) [8482]

39-153, 39+305; 71-28, 73+626; 89-343, 94+1077; 106-371, 119+56; 114-136, 130+79.

**9923. Punishment of gross misdemeanor when not fixed by statute**—Whoever shall be convicted of a gross misdemeanor for which no punishment is prescribed by any statute in force at the time of conviction and sentence shall be punished by imprisonment in the county jail for not more than one year, or by a fine of not more than one thousand dollars. (4764) [8483]

146-57, 177+939.

Defendant pleaded guilty to a charge of selling liquor to a minor and was sentenced to prison under section 3225, G. S. 1923. The commitment was in accord with the judgment and sentence. Held: proper. 213+56.

**9924. Crimes punishable under different provisions**—Any act or omission declared criminal and punishable in different ways by different provisions of law shall be punished under only one of such provisions, and a conviction or acquittal under any one shall bar a prosecution for the same act or omission under any other provision. (4765) [8484]

**9925. Acts punishable under foreign law**—An act or omission declared punishable by criminal law is not less so because it is also punishable under the laws of another state, government, or country, unless the contrary is expressly declared in such law. (4766) [8485]

**9926. Foreign conviction or acquittal**—Whenever, upon the trial of any person indicted for a crime, it appears that the offense was committed in another state or country, under such circumstances that the courts of this state had jurisdiction thereof, and that the defendant has already been acquitted or convicted on the merits, upon a criminal prosecution under the laws of such state or country, founded upon the act or omission in respect of which he is upon trial, such former acquittal or conviction is a sufficient defense. (4767) [8486]

**9927. Punishment for contempt**—A criminal act which at the same time constitutes contempt of court,

and has been punished as such, may also be punished as a crime, but in such case the punishment for contempt may be considered in mitigation. (4768) [8487]

**9928. Sending letter, when complete**—Whenever the statute makes the sending of a letter criminal, the offense shall be deemed complete from the time it is deposited in any postoffice or other place, or delivered to any person, with intent that it shall be forwarded; and the sender may be indicted and tried in the county wherein it was so deposited or delivered, or in which it was received by the person to whom it was addressed. (4769) [8488]

**9929. Omission—When punishable**—No person shall be punished for omission to perform an act where it has been performed by another acting in his behalf, and competent by law to perform it. (4770) [8489]

**9930. Attempts—How punished**—An act done with intent to commit a crime, and tending, but failing, to accomplish it, is an attempt to commit that crime; and every person who attempts to commit a crime, unless otherwise prescribed by statute, shall be punished as follows:

1. If the crime attempted is punishable by death or life imprisonment, the person convicted of the attempt shall be punished by imprisonment in the state prison for not more than ten years.

2. In every other case he shall be punished by imprisonment in the state prison for not more than half of the longest term, or by fine of not more than half the largest sum, prescribed upon conviction for the commission of the offense attempted, or by both such fine and imprisonment; but this shall not protect a person who, in an unsuccessful attempt to commit one crime, does commit another and different one, from the prescribed punishment for the crime actually committed. (4771) [8490]

An attempt to commit a crime is an overt act or acts done with intent to commit the particular crime, and tending, but failing, to accomplish it. (103-24, 114+88; 118-77, 136+311). Cited: (119-107, 137+295; 151-502, 187+607; 196+645). See 149-135, 182+961; 149-299, 183+669; 149-433, 183+960. The mere act of soliciting another to commit a crime, or preparation therefor, is not, in the absence of some overt act looking to its actual commission, sufficient to justify a conviction (131-65, 154+737).

An act done with intent to commit a crime, and tending but failing to accomplish it, is an attempt to commit that crime. 157-408, 196+645.

**9931. Second offenses—Punishment**—Every person who, after having been convicted in this state of a felony or an attempt to commit a felony, or, under the laws of any other state or country, of a crime which, if committed in this state, would be a felony, commits any felony or attempts to commit any felony in this state, upon conviction thereof, shall be punished as follows:

1. If the subsequent crime is such that the offender, upon a first conviction, might be punished by a definite sentence of imprisonment for life, he shall be sentenced to imprisonment in the state prison for life.

2. If the subsequent crime is such that upon a first conviction the offender might be punished by an indeterminate sentence of imprisonment, then he shall be sentenced to imprisonment under an indeterminate sentence for not less than twice the shortest term nor more than twice the longest term prescribed upon a first conviction; provided, that nothing herein shall reduce any minimum sentence now or hereafter fixed by any other law of this state. (4472) [8491] (Amended '27, c. 236, § 1)

**Explanatory note**—By the title of this act Gen. St. '23, § 9921 is repealed.

This section is not invalid as subjecting to double jeopardy (123-413, 144+142). The former conviction must be charged in the indictment (132-295, 156+127).

**9931-1. Conviction of three or more felonies—Punishment**—A person who, after having been three times convicted in this state of felonies, or attempts to commit felonies, or, under the laws of any other state or country, of crimes which, if committed in this state, would be felonies, commits any felony or attempts to commit any felony in this state, upon conviction of such fourth or subsequent offense, shall be punished as follows:

If the fourth or subsequent offense is such that the offender upon a first conviction might be punished by a definite sentence of imprisonment for life, he shall be sentenced to imprisonment for life.

If the fourth or subsequent offense is such that the offender upon a first conviction might be punished by an indeterminate sentence of imprisonment, then he shall be sentenced to imprisonment under an indeterminate sentence of which the minimum shall be not less than twice the shortest term prescribed upon a first conviction, and the maximum shall be for life; provided, that nothing herein shall reduce any minimum sentence now or hereafter fixed by any other law of this state. ('27, c. 236, § 2)

**9931-2. Punishment not dependent upon indictment and conviction as previous offender**—A person to be punishable under the preceding sections of this act or under any law of this state now or hereafter imposing any additional or other penalty need not have been indicted and convicted as a previous offender in order to receive the increased punishment therein provided, but may be proceeded against as provided in the following section. ('27, c. 236, § 3)

**9931-3. Same—Information as to previous offense by prosecuting officer and procedure thereon**—If at any time before sentence, or at any time after sentence but before such sentence is fully executed, it shall appear that a person convicted of a felony, or an attempt to commit a felony, has been previously convicted of any crime so as to render him liable to increased punishment by reason thereof under any law of this state, it shall be the duty of the county attorney of the county in which such conviction was had to file an information with the court wherein such conviction was had accusing such person of such previous convictions, whereupon the court shall cause the said person, whether confined in prison or otherwise, to be brought before it, either in term or in vacation, and shall inform him of the accusations contained in said information, by reading the same to him, and of his right to be tried as to the truth thereof according to law, and shall require such person to say whether he has been convicted as charged in said information or not. If he shall say that he has not been convicted as therein charged or refuses to answer, or remains silent, his plea, or the fact of his silence shall be entered of record, and the court shall make an order directing that the truth of the accusations made in said information be submitted to a jury at the then present term of court, if in term time and a jury be in attendance, or at the next ensuing term of court when a jury shall be in attendance. If the jury shall find and determine that the accused is guilty of previous convictions as charged in said information, or if the accused acknowledges or confesses in open court, after being duly cautioned as to his rights, that he has been so convicted, the court shall sentence him to the increased punishment or penalty of imprisonment to which he is liable as provided by law, and shall vacate any previous sentence if one has theretofore been imposed, provided, that any time served under the previous sentence shall

be deemed to have been served under the new sentence and shall be credited thereon. ('27, c. 236, § 4)

**9931-4. Report by prison officials, etc., as to previous convictions**—Whenever it shall become known to any warden or person in charge of the place of imprisonment wherein such person is confined, or to the Board of Punishments or to any probation or parole officer, police officer, or other peace officer that any person charged with or convicted of a felony, or attempt to commit a felony, has been previously convicted of any crime so as to render him liable to increased punishment by reason thereof under any law of this state, it shall be the duty of such person forthwith to report the facts to the county attorney of the county wherein the charge is pending or the conviction was had. ('27, c. 236, § 5)

**9932. Imprisonment on two or more convictions**—Whenever a person shall be convicted of two or more offenses before sentence has been pronounced for either, the imprisonment to which he is sentenced upon the second or other subsequent conviction shall commence at the termination of the first or other prior term or terms of imprisonment to which he is sentenced; and whenever a person while under sentence for felony commits another felony, and is sentenced to another term of imprisonment, such latter term shall not begin until the expiration of all prior terms. (4773) [8492]

26-498, 5+374.

**9933. Life sentence, when—Effect**—Whenever the statute declares a crime punishable by imprisonment for not less than a specified number of years, and fixes no maximum limit, the court may sentence the offender to imprisonment during his natural life, or for not less than the minimum number of years prescribed. A person sentenced to imprisonment for life is thereafter civilly dead. (4774) [8493]

144-82, 174+519.

**9934. Sentence — How limited — Jail — Workhouse**—Whenever a convict is sentenced to the state prison for more than one year, unless the exact period be fixed by law, the court shall so limit the term that it will expire between the months of March and November. Whenever a sentence may be imprisonment in a county jail, the offender may be sentenced to and imprisoned in a workhouse, if there be one in the county where he is tried or where the offense was committed. The place of imprisonment shall be specified in the sentence. But convicts may be removed from one place of confinement to another when so provided by statute. (4775) [8494]

Provision as to expiration of term directory (26-494, 5+369).

**9935. Limit of fine when not specified**—Whenever a statute makes a crime other than a misdemeanor punishable by fine, and does not specify its amount, a fine of not more than five hundred dollars may be imposed; and, where the defendant shall be sentenced to pay a fine, the court may, as part of the judgment, order the defendant to be committed to the county jail until such fine is paid, not exceeding a reasonable time, to be graduated according to the amount of the fine. (4776) [8495]

In all cases where the defendant is sentenced and adjudged to pay a fine the court may, in its discretion, as part of the judgment, order that he be committed to the common jail of the county until the fine is paid, not exceeding a reasonable time, to be graduated according to the amount of the fine (26-494, 5+369; 38-143, 36+443; 43-490, 45+1098; 84-367, 87+916). Without express statutory authority the court cannot impose a fine and commit the convict to prison until the fine is paid so as to exceed the limit of imprisonment prescribed by statute

for the offence (26-494, 5+369). A convict cannot be committed to state prison merely to enforce the payment of a fine and not by way of punishment for a crime; for such purpose imprisonment in the county jail is alone warranted (43-490, 45+1098). Enforcement of fines for contempt by confinement in jail (117-173, 134+509).

**9936. Suspension of sentence**—That the several courts of record of this state having jurisdiction to try criminal causes shall have power, upon the imposition of sentence against any person who has been convicted of the violation of a municipal ordinance or by-law, or of any crime for which the maximum penalty provided by law does not exceed imprisonment in the state prison for ten years, to stay the execution of such sentence whenever the court shall be of the opinion that by reason of the character of such person, or the facts and circumstance of his case, the welfare of society does not require that he shall suffer the penalty imposed by law for such offense so long as he shall thereafter be of good behavior, and at any time after the imposition of sentence in all cases where the sentence imposed is to a county jail, work farm or work house, any such court of this State shall have like power upon application of a prisoner and after notice to the county attorney. ('09 c. 391 § 1, amended '21 c. 298 § 1) [8496]

125-529, 147+273; 197+848.  
158-447, 197+847, note under § 9938.

**9937. Period of suspension—Probation**—Such stay shall originally be for a definite time; and during such time the person so sentenced may be placed upon probation under the supervision of a probation officer in counties where such officer is provided by law, and in other counties under the supervision of some discreet person who will accept such supervision and serve without pay, making report to the court as required. Provided, however, that nothing herein contained shall prevent the court from placing such persons under the supervision of a constable, sheriff or police officer specially detailed for that purpose. The court may make such terms and conditions of probation as are deemed suitable and may require a recognizance or other surety conditioned upon the performance of such terms and conditions and may enforce the same. On the expiration of the original period of probation the court may from time to time renew or extend the same for additional definite periods upon such conditions as are deemed proper, provided, the total period of such suspension of sentence shall not exceed one year except in case of conviction of a crime the maximum penalty for which is imprisonment for a term exceeding one year, and in such case such total period of suspension of sentence shall not exceed the term of such maximum penalty. The court may in its discretion suspend sentence indefinitely. The court may make such order in or out of term, and at any place within the judicial district in which the case was tried. ('09 c. 391 § 2) [8497]

**9938. Revocation**—Before sentence has been indefinitely suspended the court shall have power, in the exercise of its discretion, to revoke the order staying sentence and releasing such person on probation, without notice and at any time or place mentioned in section two [9937] of this act, stating in such order of revocation the reasons therefor; in which case the sentence theretofore imposed shall be executed in all respects as though no proceedings under this act has been taken. ('09 c. 391 § 3) [8498]

Revocation of order suspending sentence without notice. 158-447, 197+847.

**9939. Convicts protected—Forfeitures abolished**—Every convict sentenced to imprisonment shall be un-

der the protection of the law, and any unauthorized injury to his person is punishable in the same manner as if he were not convicted or sentenced. A conviction for any crime does not work a forfeiture of any property, real or personal, or of any right or interest therein. All forfeitures in the nature of deodands, or in a case of suicide, or where a person flees from justice, are abolished. (4777) [8499]

**9940. Restoration to civil rights**—All persons residing or having their domicile in the State of Minnesota who have been or may hereafter be convicted of a felony and sentenced by a court of this state to the state reformatory or state prison for such offense, may be restored by the governor, in his discretion, to civil rights, upon certification to him by the judge, officer or board having jurisdiction, custody or supervision of such person at the time such jurisdiction, custody or supervision is terminated of the matters specified in section 2 of this act. ('19 c. 290 § 1)

**9941. Certification by proper officers**—Every such judge, officer or board shall upon the termination of such jurisdiction, custody or supervision certify to the governor as follows: The court wherein the conviction was had; the offense of which such person was convicted; the indefinite suspension of the sentence, or the release, discharge, or other final disposition of said person at the termination of the sentence, and the nature and character of his conduct while under such jurisdiction, custody or supervision.

It shall also be the duty of any such judge, officer or board to certify such matters with reference to any such person whose sentence has heretofore been terminated and who has not heretofore been restored to civil rights, when such person shall make application therefor in writing, and the governor may, in like manner, in his discretion, restore such person to civil rights. ('19 c. 290 § 2)

**9942. Certificate by governor**—The governor, in case he determines to restore to civil rights, shall issue a certificate of restoration to civil rights in duplicate, one copy to be transmitted to the said person and one copy mailed to the clerk of court wherein conviction was had for filing and proper entry in the register. ('19 c. 290 § 3)

**9943. Application**—The provisions of this act shall not apply to any case where deprivation of any of the rights or privileges of citizenship is specifically made a part of the penalty for offense of which such person shall have been convicted. ('19 c. 290 § 4)

**9944. Restoration to civil rights—Persons heretofore convicted**—All persons residing or having their domicile in the state of Minnesota, who have heretofore been convicted of a felony and sentenced by a court of this state to pay a fine or to be confined in a county jail, for such offense, and who have paid and satisfied such fine or served such sentence shall be restored to all their civil rights and to full citizenship, with full right to vote and hold office, the same as if such conviction and sentence had not taken place, in the manner hereinafter provided. Before such restoration to civil rights shall take effect, such person or persons shall apply to the district court where such person or persons may reside, and produce before the court two witnesses to testify to his or her general good character; and if said court shall be satisfied of such good character, an order shall be issued restoring such party to all civil rights, which order shall be filed with the clerk of said court; thereupon said restoration to civil rights shall take effect and be in full force. ('07 c. 34 § 1, amended '13 c. 187 § 1) [8500]

**9945. Persons hereafter convicted**—All persons who shall hereafter be convicted of a felony in any court of this state and sentenced to jail or to pay a fine therefor and who shall serve such sentence or pay such fine, upon complying with the provisions of section 1 [9944] of this act, shall have all their civil rights restored as therein provided. ('07 c. 34 § 2, amended '13 c. 187 § 2) [8501]

**9946. Incriminating testimony not to be used**—In every case in the Revised Laws where it is provided that a witness shall not be excused from giving testimony tending to criminate himself, no person shall be excused from testifying or producing any papers or documents on the ground that his testimony may tend to criminate him or subject him to a penalty or forfeiture; but he shall not be prosecuted or subjected to a penalty or forfeiture for or on account of any action, matter, or thing concerning which he shall so testify, except for perjury committed in such testimony. (4778) [8502]

An objection of incompetent, irrelevant, and immaterial to introduction of sworn statement of defendant to state fire marshal under provisions of G. S. 1923, §§ 5957, 5958, does not prevent question whether or not statement was an involuntary one which defendant was required to give against himself. 210+403.

**9947. Commitment of child to state training school upon conviction of crime**—Whenever a juvenile court acquires jurisdiction of a child twelve years of age or over, who is charged with delinquency, and transfers such child to a justice, municipal, or district court to be tried for a crime, the trial court, upon conviction, may commit such child to the state training school for boys or the Minnesota home school for girls. ('17 c. 266 § 1 [8503])

Under the present statutes a boy over twelve and under sixteen years of age, convicted of the crime of murder in the third degree, may be sentenced to the state prison. 156-181, 194+942.

**9948. Convict as witness**—Every person convicted of crime shall be a competent witness in any civil or criminal proceeding, but his conviction may be proved for the purpose of affecting the weight of his testimony, either by the record or by his cross-examination, upon which he shall answer any proper question relevant to that inquiry; and the party cross-examining shall not be concluded by his answer thereto. (4780) [8504]

A witness may be asked if he has not been convicted of a crime, either a felony or a misdemeanor, and if he denies it he may be contradicted (39-357, 40+263; 42-258, 44+115; 43-196, 45+152; 77-417, 80+358; 85-19, 88+22). 128-474, 151+180. He cannot be asked if he has been indicted (91-419, 98+334), or arrested (85-19, 88+22; 97-8, 105+974), or as to the punishment (77-417, 80+358). Cited and applied (105-217, 117+483; 130-314, 153+611; 135-159, 160+677).

A defendant taking the witness stand may be asked on cross-examination, if he has been previously convicted of crime. 159-455, 199+99.

A violation of a city ordinance is not a crime, and hence cannot be proved on trial to impeach a witness. 212+418.

**9949. Intent to defraud**—Whenever, by any of the provisions of Part IV, an intent to defraud is required in order to constitute an offense, it is sufficient if an intent appears to defraud any person, association, or body politic or corporate whatsoever. (4781) [8505]  
27-309, 7+264; 43-196, 45+152; 67-176, 69+815.

**9950. Crimes on railway trains, boats, etc.**—The route traversed by any railway car, coach, train, or other public conveyance, and the water traversed by any boat, shall be criminal districts; and jurisdiction of all public offenses which shall be committed on any

such railway car, coach, train, boat, or other public conveyance, or at any station or depot upon such route, shall be in any county through which said car, coach, train, boat, or other public conveyance may pass during the trip or voyage, or in which the trip or voyage may begin or terminate. (4782) [8506]  
Crime on boat (4-325, 241).

**9950-1. Alien convicts or insane persons**—Notice to United States immigration officers—Whenever any person, convicted of a felony or adjudged insane, shall be committed to the State Prison, the State Reformatory, the county jail, or any other state or county institution which is supported wholly or in part by public funds, it shall be the duty of the warden, superintendent, sheriff, or other officer in charge of such state or county institution to at once inquire into the nationality of such person, and if it shall appear that such person is an alien, to immediately notify the United States immigration officer in charge of the district in which such prison, reformatory, jail, or other institution is located, of the date of and the reasons for such alien commitment, the length of time for which committed, the country of which he is a citizen, and the date on which and the port at which he last entered the United States. ('27, c. 301, § 1)

**9950-2. Same**—Certified copies of indictment, etc., for immigration officers—Upon the official request of the United States immigration officer in charge of the territory or district in which is located any court committing an alien, for the conviction of a felony, to any state or county institution which is supported wholly or in part by public funds, it shall be the duty of the clerk of such court to furnish without charge a certified copy of the complaint, information or indictment and the judgment and sentence and any other record pertaining to the case of the convicted alien. ('27, c. 301, § 2)

**9950-3. Transfer of inmates of penal institutions to Federal district court for trial for violations of Federal criminal laws**—That, whenever the Attorney General of the United States or any of his assistants, or the United States Attorney for the District of Minnesota, or any of his assistants, shall present and file with the Governor of Minnesota, a written verified petition stating that at the date of said petition there was imprisoned in one of the penal institutions of Minnesota, naming the institution, a certain person, naming the person, then serving a sentence of imprisonment imposed by one of the Courts of record of Minnesota, which said person was at the time of said petition under indictment in the United States District Court for the District of Minnesota for a violation of a Federal Criminal Law, which said petition shall have attached to it a certified copy of said indictment, and petitioning the State of Minnesota to consent to the transfer of such person from such Minnesota penal institution to the United States District Court for the District of Minnesota having jurisdiction thereof, for trial under said indictment, and agreeing to pay all expenses incurred by the state by reason thereof, said Governor shall forthwith hear and consider said petition and when satisfied as to the identity of the person sought to be transferred, said Governor may consent to said transfer of said prisoner by and on behalf of the State of Minnesota, and may issue his order (a) directing the Warden, Superintendent, or Keeper of the penal institution in which said person shall be imprisoned to transfer said person from said penal institution to said United States District Court for the District of Minnesota, upon receipt and service of a proper process

issued out of said United States Court naming the time and place where said prisoner shall be wanted for trial, and (b) directing said Warden, Superintendent, or Keeper of such penal institution, to retain custody of said prisoner during such trial and at the conclusion of said trial after judgment shall have been pronounced by said United States District Court, to return said prisoner to the Minnesota penal institution from which he was taken, to be there kept until released pursuant to the laws of the State of Minnesota, and prior to the time for the release of any such prisoner who shall be under sentence in the United States District Court, the Warden, Superintendent, or Keeper of the penal institution in which such prisoner is in custody shall notify the United States Marshal in and for the District of Minnesota and shall at the time of such release surrender such prisoner to him to be dealt with in ac-

cordance with the laws of the United States. ('27, c. 141)

**9950-4. Transfer of female prisoners—Female to accompany**—Every sheriff and every other person having the legal custody of any female person charged with crime or the detention of any female person are hereby required when such female person is being conducted to or from one place to another over 25 miles apart to have a suitable female person accompany such female person and every sheriff in every county of this state is hereby authorized to employ when the occasion exists a suitable female person to carry out the provisions of this act. The expenses of such employment shall be paid out of any county funds not otherwise appropriated. ('27, c. 213, § 1)

**Explanatory note**—Section 2 of Laws 1927, c. 213 repeals all inconsistent acts or parts of acts.

CHAPTER 93-A

PREVENTION AND CONTROL OF CRIME—BUREAU OF CRIMINAL APPREHENSION.

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**9950-5. Bureau created**—A bureau of the state government under the attorney general is hereby created and is designated as the Bureau of Criminal Apprehension. ('27, c. 224, § 1)

**9950-6. Superintendent—Appointment, term of office, removal, vacancy in office and salary—Rules and regulations made by—Bureau to assist sheriffs**—Said bureau shall be under the supervision and control of a superintendent, who shall be appointed by the governor by and with the consent of the Senate. The term of office of the superintendent first appointed shall continue until February 1, 1929, and thereafter the term shall be two years. The incumbent shall serve until a successor is appointed and qualified. The governor may remove the superintendent at any time at his pleasure. Any vacancy shall be filled for the unexpired portion of the term. The superintendent shall receive a salary of five thousand dollars per year, payable semi-monthly, and shall devote his entire time to the duties of his office. The superintendent from time to time shall make such rules and regulations and adopt such measures as he deems necessary, within the provisions and limitations of this act, to secure the efficient operation of the bureau. The bureau shall,

when requested by the sheriff of any county, furnish him assistance in the co-ordination of his work with other peace officers throughout the state and in promoting greater efficiency in detecting and apprehending criminals and enforcing the criminal laws of the state. ('27, c. 224, § 2)

**9950-7. Employees of bureau—Identification expert—Expenses of superintendent and employees**—The superintendent is hereby authorized to appoint and remove at his pleasure and to prescribe the duties of such skilled and unskilled employes, including an identification expert who shall be the assistant superintendent, as may be necessary to carry out the work of said bureau, but not exceeding twelve in number. The superintendent and all officers and employes of said bureau shall, in addition to their compensation, receive their actual and necessary expenses incurred in the discharge of their duties, provided that the total expense of said bureau during any year shall not exceed the appropriation therefor. ('27, c. 224, § 3)

**9950-8. Bonds of superintendent and employees**—The superintendent and each employe in the bureau whom he shall designate shall, before entering upon the performance of his duties under this act, give bond to the state, in such amount as the governor shall direct and approve, conditioned for the faithful performance of his duties. If a surety bond is given, the premium thereon shall be paid as an expense of the bureau, upon the approval of the amount of the premium by the commission of administration and finance. The state, the several governmental subdivisions thereof, or any person damaged by any wrongful act or omission of either the superintendent or any of such employes in the performance of his duties under this act may maintain an action on such bond for the recovery of damages so sustained. ('27, c. 224, § 4)

**9950-9. System for identification of criminals—Records and indexes**—The bureau shall install systems of identification of criminals, including the fingerprint system, the modus operandi system, the Bertillon method, and such others as the superintendent deems proper. Said bureau shall keep a complete record and index of all information received in convenient form for