

89022

GENERAL STATUTES OF
MINNESOTA

SUPPLEMENT 1917

CONTAINING THE AMENDMENTS TO THE GENERAL STATUTES
AND OTHER LAWS OF A GENERAL AND PERMANENT
NATURE, ENACTED BY THE LEGISLATURE
IN 1915, 1916, AND 1917

WITH NOTES OF ALL APPLICABLE DECISIONS

COMPILED BY

FRANCIS B. TIFFANY



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1918

APPENDIX

SUPP.G.S.MINN.'17

(827)*

CONSTITUTION

OF

THE STATE OF MINNESOTA

ARTICLE 1

BILL OF RIGHTS

§ 2. Rights and privileges of citizens—

Who are citizens—Infant child of naturalized father is citizen, though born abroad (121-376, 141+801). Citizens, ↪9.

Class legislation—The workmen's compensation act held not unconstitutional as class legislation (126-286, 148+71, L. R. A. 1916D, 412). Constitutional Law, ↪208(7).

G. S. 1913 § 2634, limiting speed of motor vehicles, while passing horse-driven by specified persons, to four miles an hour, is not invalid as class legislation (128-460, 151+275). Constitutional Law, ↪208(3).

G. S. 1913 § 1786, requiring notice before suing cities for injuries from contaminated water, is not unconstitutional as discrimination against private parties operating waterworks (130-41, 153+121, L. R. A. 1915E, 749). Constitutional Law, ↪85.

G. S. 1913 §§ 3349, 3355, held not class legislation, because based upon an arbitrary distinction between widows of common-law marriages and widows of ceremonial marriages (126-332, 148+279). Constitutional Law, ↪208(3).

Ordinance requiring weighing of coal held not discriminatory or unreasonable (121-202, 141+106, Ann. Cas. 1914C, 678). Constitutional Law, ↪211; Weights and Measures, ↪5.

Violation of ordinance as crime (121-207, 141+110; 121-525, 141+112; 121-526, 141+112).

1915 c. 105, which provides that a contractor misusing moneys paid him by the landowner is guilty of crime, is not invalid as class legislation (134-35, 158+829). Constitutional Law, ↪208(6).

Infringing right of contract—G. S. 1913 § 3858, requiring notice of assignments of wages to be given to the employer, is not unconstitutional as infringing the right of contract, or as class legislation (125-211, 146+359, Ann. Cas. 1915C, 688). Constitutional Law, ↪89(4), 208(7).

G. S. 1913 §§ 3136, 3137, are not unconstitutional on the ground that a prohibition of soliciting of orders for the sale of liquors is a reasonable restraint upon the liberty of contract (126-68, 147+829). Constitutional Law, ↪89(1).

This section is not violated by a statute which applies only to persons falling within a specified class, if it applies alike to all persons within such class, and reasonable grounds exist for making a distinction between those within the class and those without (126-286, 148+71, L. R. A. 1916D, 412). Constitutional Law, ↪211.

G. S. 1913 §§ 6083-6088, providing that the county board or auditor may license any voter in the county as an auctioneer, and providing a penalty for selling property at auction without such license, is not violative of this section (127-150, 149+9, L. R. A. 1915B, 151). Constitutional Law, ↪89(1).

The inheritance tax law, as amended by 1911 c. 209, is not violative of this section (128-371, 150+1094, L. R. A. 1916A, 901). Constitutional Law, ↪119, 229(1).

§ 3. Liberty of the press—

Qualified privilege of newspaper in discussion as to official misconduct determined (123-136, 143+260). Libel and Slander, ↪50½.

The interest which every citizen has in good government requires that the right be not unduly curtailed to express his opinion upon public officials and political leaders, to seek and convey information concerning their plans and purposes, and to freely criticize proposed methods and measures. In this case a publication affecting a member elect of the legislature, held not libelous per se within the rule stated (131-355, 155+212). Libel and Slander, ↪10(2).

§ 4. Trial by jury—

Not entitled to jury trial—There is no right to a jury trial in an equitable action; and an action to charge defendant as trustee for his acts in wrecking a corporation by con-

spirings with others to cause it to be adjudicated a bankrupt, and to purchase its assets for a small fraction of their value, is an equitable action, as to which there is no right of trial by jury (130-252, 153+527). Action, \S 25(2); Jury, \S 10, 14(5).

This section does not give the right of trial by jury to persons charged with petty offenses under the ordinances of a city (129-383, 152+777, Ann. Cas. 1916E, 845). Jury, \S 23(1).

Where a party is ordered to interplead, and his right to a fund paid into court by a defendant depends upon the power of the court to relieve him from the legal consequences of an accepted bid, he is not entitled to a jury trial (135-115, 160+500, L. R. A. 1917D, 741). Jury, \S 13(19).

Where one defendant held title to land impressed with a trust in favor of plaintiff, and conveyed to his codefendant, who had notice of the trust, and the latter conveyed to a third person, who had like notice, held, that plaintiff had no cause of action at law for damages against the defendants and was not entitled to a trial by jury (133-452, 158+707). Jury, \S 14(5).

Proceedings under G. S. 1913 \S 6646, for an assessment against stockholders of an insolvent corporation, are summary and informal, and the stockholders are not entitled to a jury trial of the questions involving the authority of the court to order an assessment (132-9, 155+754). Jury, \S 14(1).

On appeal from the probate court to the district court from the allowance of a will the parties have no constitutional right to a trial by jury of the issues of testamentary capacity and undue influence (131-439, 155+392). Jury, \S 17(3).

Mixed actions—In a mixed action, seeking both legal and equitable relief, a party is entitled to a jury trial of the legal issues (130-252, 153+527). Jury, \S 13(14).

To secure a jury trial of legal issues in a mixed action demand must be made that the specific issues proper for trial by jury be so tried (130-252, 153+527). Jury, \S 25(2).

Five-sixths jury verdict—The five-sixths jury law applies in a state court though the action is based on a federal statute (126-260, 148+106). Trial, \S 321½.

Where a verdict is unanimous the defeated party cannot raise the question of the constitutionality of the five-sixths jury law (132-391, 157+650).

Invasion of province of jury by court—For the court to indulge in argument on the facts, in its charge to the jury, is an invasion of this section (122-479, 142+801). Criminal Law, \S 807(1).

It is improper for the trial court to indicate its belief as to the credibility of witnesses (122-301, 142+812, 48 L. R. A. [N. S.] 842, Ann. Cas. 1914D, 804). Trial, \S 29(2).

Failure of the court in a ditch appeal to charge the jury that they should not consider the amount of damages awarded by the viewers held to invade the province of the jury (122-392, 142+802). Drains, \S 36(4); Trial, \S 133(1).

§ 5. Excessive bail and fines—Cruel or unusual punishment—

G. S. 1913 $\S\S$ 8717-8726, relating to abatement in equity of disorderly houses, held not violative of this section (126-95, 147+953). Criminal Law, \S 1214.

§ 6. Rights of accused—

126-386, 148+458.

Cited in dissenting opinion (128-163, 150+787).

G. S. 1913, $\S\S$ 8717-8726, providing for abatement of disorderly houses by suit in equity, held not violative of the guaranty that one accused of crime shall be confronted by the witnesses against him (126-95, 147+953). Criminal Law, \S 662(1).

The "speedy public trial" contemplated by this section need not be within the time and under the conditions mentioned in G. S. 1913 \S 8510 (127-505, 150+171).

§ 7. Same—Due process of law—Bail—Habeas corpus—

121-431, 141+806.

Twice in jeopardy—"Twice in jeopardy" and "twice in jeopardy of punishment" mean the same thing (123-413, 144+142). Criminal Law, \S 161.

The statute providing for increased punishment of persons previously convicted of a similar offense (\S 8491) is not violative of this section, as placing the accused twice in jeopardy (123-413, 144+142). Criminal Law, \S 162.

Acquittal of the charge of carnal knowledge of a female under the age of consent on January 16, 1914, is not a bar to another prosecution for the same offense committed by defendant on the same female on July 16, 1914, there having been three indictments found prior to the former trial, one of which charged the date July 16, 1914, but defendant having been put on trial under the indictment charging the date January 16, 1914, and the evidence on that trial having been confined to acts of intercourse occurring prior to but not after January 16, 1914; but the prosecution would have been barred if the state had been permitted to introduce evidence under such indictment of an act of intercourse occurring July 16, 1914, without being first compelled to elect to stand on the indictment charging an offense on January 16, 1914, but if an election is made, the introduction of evidence of other acts as tending to prove the act relied on will not prevent a subsequent prosecution (161+590). Criminal Law, \S 186, 198.

Self-incrimination—The evidence of one of several defendants, voluntarily given on a former trial, was properly received in evidence against such defendant, as against the objection that it was self-incriminatory (127-445, 149+945). Criminal Law, \S 539(2).

None but a legal voter could raise an objection that an answer to the question how he voted, might tend to incriminate him, and the court was not required to inform him that he might claim this privilege (126-298, 148+276). Witnesses, \S 306, 307.

The fact that in an investigation by a grand jury of a charge against another party the defendant has been required to give evidence which would tend to show that he himself had committed another crime cannot give him perpetual immunity from prosecution for the offense committed by himself and which may be proven by independent evidence (126-521, 148+471). Criminal Law, ¶42.

Election contestant cannot invoke for alleged illegal voters rights to refuse to testify on the ground of incrimination; privilege being personal (162+522). Witnesses, ¶306.

Deprivation of property—Vested rights—A conditional vendor of personal property, whose contract was executed prior to the enactment of G. S. 1913 §§ 8717-8726, had no vested right to the use of such property in violation of such statute, though prior to the enactment of such statutes such sale and use were not unlawful (126-78, 147+951, 52 L. R. A. [N. S.] 932, Ann. Cas. 1915D, 549). Constitutional Law, ¶92.

G. S. 1913, § 8971, making it an offense to advertise any business relating to procurement of divorces, is not invalid as depriving of a vested right (123-227, 143+780). Constitutional Law, ¶92.

As between the state and members of a fire department a pension is a gratuity which may be taken away at any time before it accrues without affecting a vested right (125-174, 145+1075, Ann. Cas. 1915C, 749). Constitutional Law, ¶102(2).

Where a member of the Minneapolis Fire Department Relief Association is determined by the association to be disabled, within the meaning of the constitution and by laws of such association, such member obtains a vested legal right to such benefit, of which he cannot be deprived except by due process of law (124-381, 145+35, 50 L. R. A. [N. S.] 1018). Constitutional Law, ¶102(2).

An ordinance of the city of St. Paul requiring the St. Paul City Railway Company to construct a new and additional car line, in accordance with a reserved power in the franchise ordinance, held not to violate any of the constitutional rights of the railway company (127-191, 149+195). Constitutional Law, ¶133.

Statutes curing contracts tainted with usury do not impair vested rights (132-19, 155+765). Corporations, ¶657(1).

Due process of law—G. S. 1913 §§ 2820, 2823, imposing on a school district, pupils of which attend another district maintaining a special school for agricultural and domestic science training, liability for tuition of such pupils, is not violative of this section (122-254, 142+325, 47 L. R. A. [N. S.] 200). Constitutional Law, ¶278(1).

Failure to name the owner of an interest in land in the plat and notices under G. S. § 1567, in proceedings to condemn land for the widening of a street, held not a deprivation of property without due process of law, in view of the provision of the statute that the names of owners shall be stated "so far as they can readily be ascertained" (161+231). Constitutional Law, ¶281; Eminent Domain, ¶167(2).

G. S. 1913' §§ 2348, 2349, providing for reassessment by the tax commission on complaint, are not invalid as a denial of due process of law (121-421, 141+839). Constitutional Law, ¶284.

1901 c. 167, providing that a village council may, on its own motion, order a sidewalk constructed, is not unconstitutional, because it does not give property owners an opportunity to be heard as to the propriety or necessity of the proposed sidewalk (124-471, 145+377). Constitutional Law, ¶289.

St. Paul City Charter tit. 3 c. 6 §§ 7, 23, as amended, relating to local assessments, does not violate due process of law, in that it permits an enforcement of the assessment without a sale of the property, a redemption being permitted (123-1, 142+886). Constitutional Law, ¶290(7).

G. S. 1913 §§ 7036, 7037, in giving one transporting and storing property at the request of the owner a superior lien to a chattel mortgagee, does not take property without due process of law (124-144, 144+750). Constitutional Law, ¶300.

G. S. 1913 § 4314 et seq., imposing upon a common carrier a penalty for failure to adjust claims for damages, held not unconstitutional as denying due process of law (126-138, 147+960, Ann. Cas. 1915D, 823). Constitutional Law, ¶303.

G. S. 1913 § 7735, providing for service on a soliciting agent of a foreign railroad company maintained in this state, held due process of law, as applied to service of process in a suit growing out of business solicited and obtained by such agent in this state (129-104, 151+917, L. R. A. 1916E, 232, Ann. Cas. 1916E, 335). Constitutional Law, ¶309(3).

G. S. 1913 §§ 8719-8721, relating to the presumptions arising from the maintenance of a disorderly house, are not violative of due process of law, being merely a change in procedure, without reference to whether the cause of action or rights to which it would apply were already in existence or would accrue thereafter (126-78, 147+951, 52 L. R. A. [N. S.] 932, Ann. Cas. 1915D, 549). Constitutional Law, ¶311.

G. S. 1913 § 5284, in rendering a purchaser of timber liable on a resale without a hearing, held not to deprive the purchaser of due process of law (122-400, 142+717). Constitutional Law, ¶315.

The workmen's compensation act does not deny due process of law (128-221, 150+623). Master and Servant, ¶347.

G. S. 1913 § 8143, requiring action to set aside a foreclosure sale or defense thereto for certain defects to be brought or interposed within a certain time, is not a denial of due process of law, as applied to one in possession when the statute was passed, and who does not claim under the chain of title affected by the foreclosure (130-520, 153+997). Mortgages, ¶330.

The provision of G. S. 1913 § 6646, authorizing the court, in proceedings for collection of an assessment against stockholders of an insolvent corporation, to receive evidence by

affidavit or otherwise, is not unconstitutional as depriving stockholders of property without due process of law (132-9, 155+754). Corporations, ☞269(2).

The provision of G. S. 1913 § 8723, as to giving of bond in order to resume the use of property under the abatement law, is not invalid as a denial of due process of law (131-308, 155+90). Constitutional Law, ☞278(1), 324; Nuisance, ☞60.

Effect of decisions of United States supreme court as to due process of law (129-204, 151+917, L. R. A. 1916E, 232, Ann. Cas. 1916E, 335).

G. S. 1913 §§ 8717-8726, held not invalid as an unreasonable exercise of the police power with respect to personal property used in the maintenance of a disorderly house (126-78, 147+951, 52 L. R. A. [N. S.] 932, Ann. Cas. 1915D, 549). Nuisance, ☞60.

G. S. 1913 §§ 4268-4271, requiring railroad companies to keep ditches open, is not invalid as an invasion of the property rights of the company (132-265, 156+121). Railroads, ☞108; Waters and Water Courses, ☞119(4).

§ 8. Remedies for wrongs—

The provision of G. S. 1913 § 8723, as to giving of bond in order to resume the use of property under the abatement law, is not violative of the provision that justice shall be obtained freely and without purchase (131-308, 155+90). Constitutional Law, ☞278(1), 324; Nuisance, ☞60.

G. S. 1913 § 8723, relating to the right of an owner of premises to obtain release from a decree of abatement by giving bond and paying costs, is unnecessarily drastic (126-95, 147+953).

The workmen's compensation act held not to violate this section (126-286, 148+71, L. R. A. 1916D, 412). Master and Servant, ☞347.

§ 10. Unreasonable searches and seizures—

A description of the place to be searched meets the requirements, where it furnishes data from which the officer is enabled to definitely locate the place. The description in this case held sufficient (132-260, 156+130). Searches and Seizures, ☞3.

A search warrant fair on its face protects the officer, though the complaint on which it was based is insufficient (132-260, 156+130). Sheriffs and Constables, ☞98(1).

§ 11. Attainder—Ex post facto laws—Impairment of contracts—

G. S. 1913 §§ 8717-8726, providing for abatement of disorderly houses by suit in equity, held not violative of this section, as being a bill of attainder and ex post facto law (126-95, 147+953). Constitutional Law, ☞197.

G. S. 1913 §§ 7036, 7037, in giving one transporting and storing property at the request of the owner a lien superior to a chattel mortgage, does not impair the obligation of the mortgage contract (124-144, 144+750). Constitutional Law, ☞161.

1913 c. 567 (§ 5541), does not impair contracts let for drainage work prior to the passage of the act, since such contracts are subject to the control of the legislature, the county being a mere state agency in conducting the drainage proceedings (123-59, 142+945). Constitutional Law, ☞121(2).

The inheritance tax law, as amended by 1911 c. 209, is not unconstitutional as impairing the obligation of contracts (128-371, 150+1094, L. R. A. 1916A, 901). Constitutional Law, ☞119.

The workmen's compensation act does not impair the obligation of contracts of employment existing at the time of the enactment of the statute (128-221, 150+623). Constitutional Law, ☞146.

§ 12. Imprisonment for debt—Exemption from execution—

1915 c. 105, making it larceny for a contractor to misuse, with intent to defraud, money paid to him by the landowner for improvements under G. S. § 7020, is not invalid as involving imprisonment for debt (134-35, 158+829). Constitutional Law, ☞83(3).

A person who furnishes material for the construction of a building on a homestead has no claim or lien on money constituting proceeds of insurance on the building after its destruction by fire (132-372, 157+504). Homestead, ☞79.

Exception of debt incurred for labor from exemption right cited in (161+413). Descent and Distribution, ☞140. See note under G. S. § 8182.

§ 13. Private property for public use—

Property damaged—Under this section, as amended in 1896, a property owner may recover for special pecuniary damage to private property through the construction and operation of a railroad, though the damage is consequential and results from structures or operations that do not invade his land; but the right of recovery is based on the existence of an actionable wrong at common law, and if a railroad erects a structure which constitutes a private nuisance as to property in the neighborhood, the owner thereof may recover, though the instrumentality causing the injury is not a public nuisance, and is reasonable and necessary from a public standpoint, is not negligently constructed, and is authorized by statute (161+501). Eminent Domain, ☞90.

Damaging private property abutting upon a highway by constructing an embankment in the highway is an invasion of the rights of the owner, for which this section requires compensation (130-359, 153+738). Eminent Domain, ☞90.

Under this section a city is liable for damages caused by change of grade of a street (123-300, 143+906). Eminent Domain, ☞101(1).

If the operation of a railroad in the ordinary manner creates a private nuisance upon adjacent property, such property is thereby damaged within the purview of this section (125-224, 146+353, 51 L. R. A. [N. S.] 1017). Eminent Domain, ¶104.

The construction of a commercial railroad across a street in front of a lot imposes an additional servitude for which the property owner is entitled to compensation (208 Fed. 122, 127 C. C. A. 89). Eminent Domain, ¶119.

Where the property itself is not taken, but merely damaged, the right of the owner to go into court and compel the municipality which invades his rights to make compensation satisfies the requirement of this section (130-359, 153+738). Eminent Domain, ¶271.

The obligation to pay consequential damages to property not taken rests upon the political division of the state which invades the right of property, where the legislature has made no other provision; and where a county, under G. S. 1913 §§ 2584-2586, constructs a bridge, in building which abutting property is damaged, the duty to make compensation was on the county and not the village in which the bridge was located (130-359, 153+738). Eminent Domain, ¶285.

Riparian owner, in front of whose property a railroad company places a fender to direct navigation under its bridge, held not entitled to compensation, the work being authorized by the federal government (125-380, 147+431). Navigable Waters, ¶39(5).

Under this section an abutting owner is entitled to recover damages arising to his property from the improvement of the street, such as removal of lateral support, depression of the street below grade, and prevention of access (129-59, 151+532). Municipal Corporations, ¶385(4).

Taking private property without compensation—The power of eminent domain defined (125-194, 145+967). Eminent Domain, ¶4.

St. Paul City Charter § 251, making compensation awarded a public charge recoverable by the property owner, held not violative of this section (128-432, 151+144). Eminent Domain, ¶70.

St. Paul City Charter tit. 3 c. 6 §§ 7, 23, as amended, relating to assessments for local improvements, held not violative of this section because permitting an enforcement of the assessments without a sale of the property, redemption being permitted (123-1, 142+880). Constitutional Law, ¶290(7).

G. S. 1913 §§ 2820, 2823, imposing liability on one school district for tuition of pupils attending a special school for training in agriculture and domestic science maintained in another district, is not violative of this section (122-254, 142+325, 47 L. R. A. [N. S.] 200). Constitutional Law, ¶278(1).

Necessity of condemnation is not subject to judicial review (121-376, 141+801).

An ordinance of a city establishing a residential district, and prohibiting the erection therein of certain business establishments, including stores, held, as applied to one who had erected a store building under a permit duly issued, and who applied for a permit to install therein an electric lighting system as required by ordinance, invalid, as taking property without compensation, such ordinance not being within the police power of the city to restrict the erection of building injurious to the public welfare (134-226, 158+1017). Constitutional Law, ¶273(1); Eminent Domain, ¶2(1); Municipal Corporations, ¶625.

A city is without power to condemn land, ostensibly for an alley, but with the intention to turn over the land to a private person for the construction of a switch track to his land; and the truth of the declaration in the petition that the land is sought to be acquired for an alley may be inquired into by the court (133-221, 158+240). Eminent Domain, ¶13, 57, 66, 67.

An abutting owner may enjoy the operation and maintenance of a commercial railroad on the street, which has been constructed without having obtained the right by condemnation or otherwise to occupy the street (131-183, 154+948). Eminent Domain, ¶276.

One injured in his private rights by commercial railroad's use of public street, as is the owner of fee of street, is entitled to relief against such use (162+453). Municipal Corporations, ¶671(10).

Failure to name the owner of an interest in land in the plat and notices under G. S. 1913 § 1567, in proceedings to condemn land for the widening of a street, held not a taking of property without compensation, in view of the provision of the statute that the names of owners shall be stated "so far as they can readily be ascertained" (161+231). Constitutional Law, ¶281; Eminent Domain, ¶167(2).

A resolution of a municipal council to take property for an alley has no validity in absence of an assessment of compensation (135-436, 161+154).

The workmen's compensation act does not violate this section (126-286, 148+71, L. R. A. 1916D, 412). Constitutional Law, ¶208(7).

Measure of damages—Measure of damages for taking part of leasehold premises, removal of front wall which landlord is not required by lease to rebuild, and where lease is terminable on 60 days' notice and payment of a specified sum, stated (see 135-389, 160+1021). Eminent Domain, ¶147.

ARTICLE 2

NAME AND BOUNDARIES

§ 3. Acceptance of enabling act—

In view of this section, land, title to which is in the United States, cannot be registered under the Torrens act (130-456, 153+871). Courts, ¶489(5); Records, ¶9(1, 4, 13).

ARTICLE 3

DISTRIBUTION OF THE POWERS OF THE GOVERNMENT

§ 1. Departments of the government—

Legislative questions—Necessity of exercise of power of eminent domain is a legislative and not a judicial question (121-376, 141+801). Eminent Domain, ¶68.

An ordinance relating to a purely legislative matter cannot be made the subject of a suit to restrain its enforcement (131-424, 155+397). Injunction, ¶85(1).

The question of the necessity or propriety of an order of the county board in changing the boundaries of a school district under G. S. 1913 § 2677, is legislative and not judicial (135-439, 161+152). Constitutional Law, ¶70(1).

The provision of G. S. 1913 § 3142, forbidding the sale of intoxicating liquors within one-half mile of a town or municipality which has voted no license, is constitutional (126-5, 147+660). Intoxicating Liquors, ¶14.

A determination of the legislature that a sufficient distinction existed between two classes of persons to apply different rules concerning them is binding upon the courts, unless the distinction is purely fanciful and arbitrary (126-286, 148+71, L. R. A. 1916D, 412). Constitutional Law, ¶7.

The courts will not interfere with the discretion vested in the county board by G. S. 1913 § 2696, in dividing the school funds between an old district and a new district created therefrom (126-209, 148+53). Schools and School Districts, ¶41(1).

What accommodations are reasonably necessary is legislative and administrative, and not judicial, and the courts can interfere only where the exercise of the power oversteps constitutional or other limitations (124-533, 144+771). Railroads, ¶9(2).

The function of the railroad and warehouse commission in ordering the construction of a suitable depot at a village or city is legislative or administrative, but the reasonableness of such an order is a judicial question (135-19, 159+1089). Railroads, ¶9(2).

1913 c. 567 § 5541, held not invalid, in so far as it affects contracts entered into before the statute was enacted, on the ground that the provision as to payment of compensation is unwise and does not subserve a public purpose; the question of the wisdom and propriety of the provision being solely for the legislative determination (123-59, 142+945). Constitutional Law, ¶103, 121(2).

Whether charitable associations are to be excluded from the requirement as to guarding dangerous machinery is for the legislature and not the courts to determine (122-10, 141+837, 46 L. R. A. [N. S.] 548). Charities, ¶45(2).

Construction favoring validity—Where a law is within constitutional limitations it cannot be said to be against public policy (124-300, 145+21). Constitutional Law, ¶38.

Rule requiring that statutes be so construed as to be consistent with constitutional limitations, if possible, applies to home rule city charters (129-40, 151+545, Ann. Cas. 1916B, 189). Constitutional Law, ¶48.

In the enactment of statutes the legislature is presumed to intend to keep within constitutional bounds, and unless the statute is unconstitutional beyond a reasonable doubt it must be sustained (126-95, 147+953). Constitutional Law, ¶48.

Statutes are presumed to be valid, unless they clearly transgress some constitutional limitation (126-286, 148+71, L. R. A. 1916D, 412). Constitutional Law, ¶48.

While the courts are not bound by the legislative determination of what is a reasonable license fee, they will not hold a legislative act invalid, unless it is clear that it infringes some right guaranteed by the constitution (124-498, 145+383, 51 L. R. A. [N. S.] 40, Ann. Cas. 1915B, 812). Licenses, ¶7(9).

Policy or wisdom of legislation—The wisdom of the workmen's compensation act is for the determination of the legislature, not of the courts (128-158, 150+620). Constitutional Law, ¶70(3).

The courts have no concern with the wisdom of a provision of the Duluth city charter relating to preferential ballot (125-407, 147+815, L. R. A. 1915B, 401). Constitutional Law, ¶70(3).

The courts cannot question the wisdom of G. S. 1913 § 1340, providing that the classification of cities shall be determined by the state census alone (124-126, 144+756). Constitutional Law, ¶70(3).

Executive questions—The courts will not on habeas corpus review the action of the governor in granting a warrant in extradition proceedings (126-38, 147+708). Habeas Corpus, ¶92(2).

G. S. 1913 §§ 6083-6088, authorizing the county board or county auditor to license any voter in the county as an auctioneer, is not invalid as delegating legislative powers to the officers named (127-150, 149+9, L. R. A. 1915B, 151). Constitutional Law, ¶63(3).

The acts creating the tax commission and conferring on it certain powers are not invalid as a delegation of legislative power (121-421, 141+839). Constitutional Law, ¶80.

1915 c. 367, amending G. S. 1913 § 4353, is not violative of this section, in that it delegates legislative power to the railroad and warehouse commission (134-217, 153+982). Carriers, ¶2; Constitutional Law, ¶62.

The discretion of the mayor of a city to revoke licenses is not subject to judicial control, except that a court may inquire as to whether a fair legal discretion has been exercised (131-195, 154+964; L. R. A. 1916C, 224). Theaters and Shows, ¶3.

What is judicial power and what are judicial questions—Judicial power is vested alone in the courts, and consists in the adjudication of the rights of persons or property, and to that end declares, construes, and applies the law. The action of a town board in granting or withholding permits to operate trades or employments in which noisome odors may arise is not judicial, but is an exercise of the police power of the state. The proceedings of a license board in such cases is, however, quasi judicial (130-474, 153+869). Constitutional Law, ¶67.

It is not for the court to make statutory law, but to construe and enforce it as it finds it (125-174, 145+1075, Ann. Cas. 1915C, 749). Constitutional Law, ¶70(1).

Whether railroad rates fixed by statute are reasonable or unreasonable and confiscatory is a judicial question, exclusively for the determination of the courts (130-144, 153+320, L. R. A. 1916B, 764). Carriers, ¶18(1).

While in a proper action the reasonableness of an established rate may be the subject of judicial investigation and adjudication, courts are without authority to fix by injunction, or otherwise, rates for public service corporations (130-71, 153+262, Ann. Cas. 1916B, 286). Constitutional Law, ¶70(3).

Whether an order of the railroad and warehouse commission is reasonable is a judicial question (130-57, 153+247). Constitutional Law, ¶73.

In the exercise of the power of eminent domain, the only questions for the determination of the courts are whether the use is a public one, and whether proper compensation is given (125-194, 145+967). Eminent Domain, ¶66.

Inconsistencies arising from the application of the inheritance tax law, not affecting its constitutionality, do not call for action by the courts to remove such inconsistencies (124-508, 145+390, 50 L. R. A. [N. S.] 262, Ann. Cas. 1915B, 861). Taxation, ¶858.

Whether the purpose for which private property is to be taken is a public one is a judicial question, which may be determined by the courts (125-403, 147+273). Eminent Domain, ¶66.

The courts cannot interfere with the legislative discretion in the formation of senatorial and representative districts, except when there has been a clear and arbitrary departure from the requirements of equality (125-336, 147+105). States, ¶27.

Under the statutes relating to public service corporations it is the duty of the court to determine in each particular case whether the taking of designated property is necessary and whether such property may lawfully be taken for the purpose (127-23, 148+561). Eminent Domain, ¶66.

The workmen's compensation act is not violative of this section, in that it encroaches on the judiciary (128-221, 150+623). Constitutional Law, ¶78.

The Elwell road law (G. S. 1913 §§ 2603-2609) is not unconstitutional, as conferring legislative powers on the judiciary (129-165, 151+899). Constitutional Law, ¶61.

G. S. 1913 § 7998, forbidding the direction of a verdict over the objection of the adverse party, is not violative of the constitutional authority of the courts to determine whether a cause of action or defense exists, but merely regulates the exercise of the power (129-4, 151+412). Trial, ¶171.

1911 c. 207 (G. S. 1913 § 2688), relating to proceeding for the consolidation of school districts and to appeals therein, is not violative of this section as an attempt to confer upon the courts questions of a purely legislative character (122-388, 142+723). Constitutional Law, ¶61.

While the necessity and propriety of condemning land for a public purpose is a legislative question, the courts have power to inquire as to the intended use to be made of land which a city is seeking to condemn ostensibly for a public alley; and if the evidence clearly shows that the city intends to devote the land to a private purpose, its petition for condemnation will be denied (133-221, 158+240). Eminent Domain, ¶66.

The drainage act of 1909 (G. S. 1913 §§ 5523, 5525, 5553), conferring jurisdiction on the district court to entertain a proceeding to establish a ditch located wholly within one county, and not benefiting or damaging land in an adjoining county, is not unconstitutional, as conferring legislative and executive powers on the court (131-43, 154+617). Constitutional Law, ¶70(1), 74; Drains, ¶26.

Powers that may be delegated by the legislature—Power to make regulations as to use of general standard of weights and measures fixed by legislature may be delegated (121-202, 141+106, Ann. Cas. 1914C, 678). Constitutional Law, ¶60.

ARTICLE 4

THE LEGISLATIVE DEPARTMENT

§ 2. Number of members—

This section does not require that each district shall contain the same number of inhabitants, the legislature being vested with a wide discretion in forming such districts, and a mere variance in population does not render the apportionment unconstitutional (125-336, 147+105). States, ¶27.

§ 9. Members not to hold certain offices—

Members of the legislature which enacted 1913 c. 400 (G. S. 1913 §§ 294-297), are not prohibited by this section from becoming candidates for nomination for state auditor at the

ensuing primary election; there being no increase made by that law in the compensation of the office at the time the act took effect (125-104, 145+794). Officers, [§29](#).

§ 10. Revenue bills to originate in the house—

The penalty imposed by the abatement law (G. S. 1913 § 8724) is not a tax, the bill for imposition of which must originate in the house (131-308, 155+90). Statutes, [§6](#).

§ 15. Exclusion of convicts from civil rights—

This section does not forbid the legislature from providing that a violation of any provision of the corrupt practices act shall bar a candidate from holding an office to which he is elected (126-378, 148+293). Elections, [§270](#).

§ 20. Reading bills—

No particular formality is required to dispense with the requirement as to readings; and action of the house, the necessary effect of which was to order a third reading of the bill on the same day that it had been read a second time, and to place it on its final passage, and the passage of the bill by a vote of more than two-thirds of all the members of the house, operated to dispense with the rule. "Two-thirds of the house," as used in this section, means two-thirds of the whole membership of the house. The provision as to dispensing with the reading of a bill on three different days is mandatory, and an act passed without the required readings on different days, and without dispensing with the rule, is invalid (130-424, 153+749). Statutes, [§15](#).

Presumption as to compliance with requirement as to readings (see 130-424, 153+749). Statutes, [§285](#), 286. See, also, notes under Const. art. 4 § 21, and G. S. 1913 §§ 41, 8414.

§ 21. Enrolling and signing bills—

The fact that a bill was enrolled, authenticated by the presiding officers of each house, signed by the governor, and filed with the secretary of state is not conclusive that it was passed in a constitutional manner, but the courts may look to the legislative journals to ascertain that fact. The presumption arising from such enrollment, etc., is a strong one, requiring clear and strong evidence to overcome it. Mere silence of the journals is not sufficient to overcome the presumption, but it must affirmatively appear on the face of the journal that some constitutional requirement was not followed. And where the daily printed journal is silent on the subject, and the permanent journal shows an adverse vote on a combined motion to suspend the constitutional requirement as to readings of bills and also certain rules of the house, made before necessity had arisen for suspension of the constitutional requirement as to the particular bill in question, there was no affirmative showing that such requirement had not been complied with when the occasion did arise (130-424, 153+749). Statutes, [§37](#), 286.

Relative weight as evidence of printed daily journal and permanent journal (see 130-424, 153+749). Statutes, [§285](#), 286. See, also, notes under G. S. 1913 §§ 41, 8414.

§ 23. Census—Apportionment—

This section imposes a duty upon the legislature to make a reapportionment, and, if not made at the first session after the census, it may make the reapportionment at some subsequent session (125-336, 147+105). States, [§27](#).

§ 27. Laws to embrace but one subject—

Construction in general—This provision is to be construed liberally, and all doubts resolved in favor of the sufficiency of this title (124-307, 144+962). Statutes, [§105](#)(1).

A law is not invalid because its scope is not as broad or all-inclusive as its title indicates (135-89, 160+204). Statutes, [§126](#).

Specific statutes—1905 c. 204 (G. S. 1913 § 5258 et seq.) is not violative of this section (128-300, 150+912). Statutes, [§117](#)(1).

That penal provisions of G. L. 1909 c. 201 (4624-4635) are not expressed in its title does not render the act unconstitutional (121-381, 141+526). Statutes, [§109](#).

The title of 1909 c. 503 (G. S. 1913 § 6863) does not so limit or restrict the act as to exclude the subject of vacation of plats or streets (129-305, 152+643). Statutes, [§123](#)(4).

1911 c. 156 (G. S. 1913 §§ 4611-4623), establishing a department of weights and measures, does not violate this section (124-307, 144+962). Statutes, [§118](#)(1).

The inheritance tax law as amended by 1911 c. 209, is not violative of this section (128-371, 150+1094, L. R. A. 1916A, 901). Statutes, [§121](#)(4).

Title to 1911 c. 250 held sufficient (124-136, 144+748). Statutes, [§110½](#)(1).

1913 c. 140 (G. S. 1913 §§ 48, 49) is not violative of this section, in that its subject-matter is not expressed in its title (126-110, 147+946). Statutes, [§119](#)(3).

1913 c. 389 (G. S. 1913 § 336) is not violative of this section, as embracing more than one subject (125-238, 146+364). Statutes, [§107](#)(5).

1913 c. 389 (G. S. 1913 § 336) is not violative of this section, in that its subject-matter is not germane to the statutes amended (125-238, 146+364). Statutes, [§131](#).

1913 c. 389, § 2 (G. S. 1913 § 336), amending certain sections of R. L. 1905, as the same were amended by subsequent session laws, and repealing certain session laws, the subject-matter of all such laws being primary elections, which chapter refers in its title to the sections amended by number only, without reciting in its own title the general subject of the legislation, is not violative of this section (125-238, 146+364). Statutes, [§125](#)(5).

G. S. 1913 §§ 3136, 3137, held not violative of this section (126-68, 147+829). Statutes, [§118](#)(1).

§ 32a. Submission of laws for taxation of railroads—

Cited (125-407, 147+815, L. R. A. 1915B, 401).

Cited (131-287, 155+92) on the proposition as to whether illegally marked ballots are to be counted in determining whether a majority of the votes cast have favored the measure submitted. Intoxicating Liquors, ☞35.

§ 33. Special legislation prohibited—

In general—This section does not deprive the legislature of power to classify districts of the state for purposes of legislation, if the basis of the classification is germane to the purpose of the law (124-126, 144+756). Statutes, ☞92.

The word "modify," as used in this section, is synonymous with "enlarge" and "extend," and a statute which removes or takes from a special statute a distinct and severable part is not a modification thereof (133-178, 158+50). Statutes, ☞134.

The amendment adopted November 8, 1881, did not operate on a franchise granted after that date, but before the amendment took effect in January following (128-314, 150+917).

Laws passed prior to amendment of 1892—Sp. L. 1891 c. 423 took effect prior to the amendment of this section (133-178, 158+50). Statutes, ☞102(2).

1903 c. 294, was a repeal in part of the special law, but was not a modification thereof, within the meaning of this section (133-178, 158+50). Statutes, ☞140.

1911 c. 250 § 4, providing for compensation of clerks of the district court of certain counties, held not to extend or amend Sp. L. 1891 c. 423, fixing the compensation of the clerk of the district court of Otter Tail county (124-136, 144+748). Statutes, ☞134.

Matters subsequent to amendment of 1892—The classification in 1911 c. 250 §§ 4, 5, held not arbitrary or unreasonable (124-136, 144+748). Statutes, ☞93(10).

1913 c. 257, relating to the construction of a railway for the use of the University of Minnesota, is not unconstitutional as special legislation (125-194, 145+967). Statutes, ☞97(1).

1913 c. 389 (G. S. 1913 § 336), relating to primary elections, is not violative of this section, as special or class legislation (125-238, 146+364). Statutes, ☞101(2).

1913 c. 567 (§ 5541), relating to payment of compensation on drainage contracts, held, not violative of this section on the ground that the classification made by such act is arbitrary (123-59, 142+945). Statutes, ☞97(3).

G. S. 1913 § 3191, making it unlawful to sell liquors to minors, held not unconstitutional as special legislation, in that a general law can be made applicable (124-162, 144+752, Ann. Cas. 1915B, 377). Statutes, ☞76(5).

G. S. 1913 § 8901 is not violative of this section, as being class legislation, though the act is aimed at those only who make or use false statements to obtain credit from banks, savings banks, and trust companies (135-89, 160+204). Constitutional Law, ☞208(1).

North Dakota act, imposing on "every common carrier" liability "to any of its employes" for injuries, held not violative of N. D. Const. N. D. art. 1 § 11, providing that all laws of general nature shall have uniform operation, and § 20, prohibiting class legislation (121-431, 141+806).

§ 34. General laws—

124-136, 144+748.

§ 36. Cities and villages may adopt charters—Classification of cities for legislative purposes—

Cited (125-407, 147+815, L. R. A. 1915B, 401).

Home rule charter provision cited (129-240, 152+408).

Election—The six months within which a proposed home rule charter shall be submitted to the mayor extends from a date earlier than the date of appointment of the last member of the charter commission (129-181, 151+970). Municipal Corporations, ☞48(1).

Cited (131-287, 155+92) on the proposition as to whether illegally marked ballots are to be counted in determining whether a majority of the votes cast have favored the measure submitted. Intoxicating Liquors, ☞35.

Mandamus to compel calling of election for submission of home rule charter returned by charter commission (129-181, 151+970). Mandamus, ☞74(2).

Newspaper duly designated for the publication of official notices held a newspaper of "general circulation" within the meaning of this section (123-1, 142+886). Newspapers, ☞3(1).

Classification—The legislature has power to provide that, for the purposes of classification of cities, population shall be determined by the state census alone. The power of the legislature to fix the test by which the classification of cities according to population shall be determined implies the power to change that test, though such change may result in shifting cities from one class to another. The legislature has no power to adopt a test which is arbitrary and evasive of the constitution. But it cannot be said that G. S. 1913 § 1340 is thus arbitrary and evasive (124-126, 144+756). Statutes, ☞92.

1909 c. 503 (G. S. 1913 § 6863) held not invalid, as making an arbitrary classification of municipalities, in that it excepts cities of the first class having a special charter from its operation, for, irrespective of the proviso, such cities would not have their special charters repealed or affected by implication (129-305, 152+643). Statutes, ☞93(4).

Powers under charter—The requirement that the charter shall provide a legislative body for the city is not violated by conferring the power of the initiative and referendum upon the electors of the city after establishing such legislative body (134-355, 159+792). Municipal Corporations, ☞108.

The adoption of a home rule charter by the people of a city is legislation, and the authority which it furnishes to city officers is legislative authority (134-296, 159+627). Municipal Corporations, [§48\(2\)](#).

The powers which cities may take to themselves by virtue of home rule charters are subject to the paramount power of the legislature, and may be suspended or abrogated whenever the legislature sees fit to exercise its reserved power. The county option law (1915 c. 23), as to cities operating under home rule charters, does not infringe the rights granted by this section (132-298, 156+249). Intoxicating Liquors, [§14](#).

The provisions relative to home rule charters do not authorize a city to grant its city council the right to punish a witness called before it for contempt, as such power cannot be inferred (131-116, 154+750). Municipal Corporations, [§60](#).

The provisions of the St. Paul commission charter directing the mayor to designate one of the councilmen as commissioner of education, to have supervision of the schools and libraries of the city, is not violative of this section (123-82, 150+389). Schools and School Districts, [§10](#).

St. Paul City Charter tit. 3 c. 6 §§ 7, 23, relating to assessments for local improvements, are not violative of this section (123-1, 142+886). Municipal Corporations, [§407\(2\)](#).

ARTICLE 5

THE EXECUTIVE DEPARTMENT

§ 4. Powers and duties of governor—

There being a vacancy in the office of municipal judge, because of an unconstitutional statute, the governor was authorized to make an appointment (131-401, 155+629). Judges, [§8](#).

ARTICLE 6

THE JUDICIARY

§ 1. Courts—

Cited (133-124, 158+234).

The municipal court is a state court within the meaning of this section (130-492, 153+953, L. R. A. 1916B, 931). Courts, [§42\(5\)](#).

§ 2. Supreme court—

G. S. 1913 § 357, conferring original jurisdiction on the supreme court to review the action of canvassing boards and election officers, is valid as a grant of jurisdiction in one of the remedial cases permitted by this section (125-249, 146+733). Courts, [§206](#).

§ 6. Judges of supreme and district courts—Qualifications—Compensation—

A layman is not entitled to have his name placed on the primary ballot as candidate for district judge, though he has filed with the secretary of state an affidavit under G. S. 1913 § 339, and paid the requisite fee (125-533, 147+425). Judges, [§4](#).

§ 7. Probate courts—

Cited (130-2C9, 153+520).

Jurisdiction of probate court—The jurisdiction of the probate courts is entire, exclusive, and plenary, and the court has fully equity powers necessary to the settlement and distribution of an estate, and it may apply the law to the facts, whether the law be statutory, common law, or the principles of equity (133-124, 158+234). Courts, [§200½](#).

Where the person alleged to be deceased is in fact dead and in fact left an estate within the probate court's territorial jurisdiction, it had jurisdiction over the subject-matter of administering such estate (162+454). Executors and Administrators, [§9](#).

The administration of the estate of a deceased person is a proceeding in rem (162+454). Executors and Administrators, [§20\(1\)](#).

G. S. 1913 §§ 7416, 8175, do not take away from the probate court jurisdiction and control over matters pertaining to a fund resulting from the statutory liability for wrongful death (123-165, 143+255). Courts, [§199](#).

The probate court has exclusive jurisdiction of the settling of accounts of administrators, and to correct errors in its orders settling such accounts, or to set them aside for mistake or fraud (126-445, 143+302). Courts, [§472\(4\)](#).

Jurisdiction to determine heirship and descent of allotment on White Earth Indian reservation, where allottee dies before approval of his allotment (130-487, 153+951). Courts, [§489\(5\)](#).

— **How invoked**—The jurisdiction of the probate court conferred by this section must be invoked by petition as required by G. S. 1913, § 7227 (123-112, 150+385). Executors and Administrators, [§22\(3\)](#), 29(1).

Term—1915 c. 168, providing that clerks of district court, elected in 1912, shall hold over until January, 1919, and that their successors shall be elected in November, 1918, held to create a vacancy commencing in January, 1918, in view of art. 6 § 13, and art. 7 § 9 (132-426, 157+652). Clerks of Courts, [§7](#).

§ 9. Election of other judges—

Cited (130-492, 153+953, L. R. A. 1916B, 931; 132-426, 157+652).

Under this provision, by virtue of which the municipal court of Duluth is created, the office of municipal judge is elective, and the term of office, fixed by the legislature, cannot exceed seven years. A hold-over provision in a statute, the effect of which may prolong the incumbent's term beyond the seven years, may be valid for the constitutional term. This provision does not prevent the legislature from extending a fixed term of office by a provision that the incumbent shall continue in office until his successor is duly elected and qualified, if the necessary effect of the statute does not prolong the term beyond the seven years. If a statute has that effect it is unconstitutional (131-401, 155+629). Judges, ☞7, 9.

§ 10. Vacancies—

A successor to one appointed municipal judge should be elected at the next general election, and a statute providing otherwise is unconstitutional (131-401, 155+629). Judges, ☞8.

Where, at the expiration of the time for filing nominations for district judge at the primary election in June, there were but two vacancies, but subsequent to that date another vacancy was created by resignation, it was the duty of the county auditor to prepare the primary election ballot so as to indicate that there were three vacancies to be filled at the November election (126-525, 147+426). Elections, ☞126(5).

§ 13. Clerk of district court—

Cited (131-401, 155+629).

1915 c. 168, amending G. S. 1913 §§ 809, 810, by providing that clerks of the district court, elected in 1912, shall hold over to the first Monday in January, 1919, and that their successors shall be elected in November, 1918, thus extending the terms of present incumbents, and creating a vacancy to be filled by appointment is violative of this section and art. 7 § 9 (132-426, 157+652). Clerks of Courts, ☞3, 7.

§ 14. Pleadings—Process—Conclusion of indictments—

Cited on question of meaning of word "process" (132-389, 157+642). Holidays, ☞5.

§ 15. Court commissioners—

A court commissioner is without power to vacate a judgment rendered by the district court, and an order made by him purporting to do so is a nullity (131-129, 154+748). Court Commissioners, ☞4.

ARTICLE 7

ELECTIVE FRANCHISE

§ 1. Persons entitled to vote—

Cited (132-48, 155+1064).

The legislature may prescribe such safeguards in respect to the right to vote as are reasonably necessary to prevent fraud, to limit the election to those possessing the requisite qualifications, and to insure a free and explicit expression of the will of the voter; but, where good faith is shown, mere failure to comply with statutory regulations, unless such regulations are declared mandatory, will not invalidate the ballots (125-417, 147+275). Elections, ☞118.

The preferential system of voting provided by the Duluth charter, whereby first choice, second choice, and additional choice votes are permitted, and are counted in a manner therein provided, is violative of this section. The term "vote," as used in this section, means a choice for a candidate by one constitutionally qualified to exercise a choice. It does not mean that the ballot of one elector, cast for one candidate, can be of greater or less effect than the ballot of another elector cast for another candidate (130-492, 153+953, L. R. A. 1916B, 931). Elections, ☞15.

The provisions of the Duluth city charter, relating to a preferential ballot, by which the voter can indicate a first, second, and additional choice, held not in conflict with this section (125-407, 147+815, L. R. A. 1915B, 401). Elections, ☞27.

§ 2. Persons not entitled to vote—

This section does not forbid the legislature from providing that a violation of any provision of the corrupt practices act shall bar a candidate from holding an office to which he is elected (126-378, 148+293). Elections, ☞270.

§ 6. Elections to be by ballot—

The preferential system of voting provided by the Duluth charter, whereby first choice, second choice, and additional choice votes are permitted, and are counted in a manner therein provided, is violative of this section (130-492, 153+953, L. R. A. 1916B, 931). Elections, ☞15.

§ 7. Eligibility to office—

125-104, 145+794; note under art. 4 § 9.

The corrupt practices act is not violative of this section, in that it authorizes the exclusion of a person from office for corrupt practices in the election thus adding qualifications of eligibility to office not warranted by this provision (126-378, 148+293). Elections, ☞270.

§ 8. Women—

The provision of the St. Paul commission charter that the mayor shall designate one of the members of the council, elected by the male voters of the city, as commissioner of education, with charge over the schools and libraries of the city, is not violative of this section (128-82, 150+389). Elections, ↪13.

§ 9. Official year—Terms of office—General elections—

Plaintiff claims to have held over in the office of municipal judge of the city of Duluth after the expiration of his term. The statute (1913 c. 102) creating the office contained no valid hold-over provision (162+1075). Judges, ↪9.

G. S. 1913 §§ 809, 810, fixing the terms of certain county officers, and operating prospectively, is not violative of this section, in view of art. 11 § 4 (133-65, 157+907). Counties, ↪65.

1915 c. 168, amending G. S. 1913 §§ 809, 810 by providing that clerks of the district court elected in 1912 shall hold over to the first Monday in January, 1919, and that their successors shall be elected in November, 1918, thus extending the term of present incumbents, and creating a vacancy commencing in January, 1917, is violative of this section and of art. 6 § 13 (132-426, 157+652). Clerks of Courts, ↪37.

The provision of this section fixing the official year does not affect the provision in the municipal court act as to holding over by the judge of that court (131-401, 155+629). Judges, ↪9.

Where a county superintendent of schools was defeated for re-election, and unsuccessfully contested the election on the ground that her opponent had violated the corrupt practices act, and then surrendered the office, and the contestee qualified and assumed the duties of the office, but was thereafter ousted on appeal, and resigned, there was a vacancy in the office; contestant's right to the office having expired under this section (131-1, 154+442). Schools and School Districts, ↪48(3).

ARTICLE 8**SCHOOL FUNDS, EDUCATION AND SCIENCE****§ 1. Uniform system of public schools—**

The legislature has the power to establish in local communities schools teaching other than the common branches, such as special training in agriculture and domestic science (122-254, 142+325, 47 L. R. A. [N. S.] 200). Schools and School Districts, ↪9.

This provision, construed with § 3, requiring the legislature to make provisions for raising funds for school purposes, is mandatory, and not a mere grant of power (122-254, 142+325, 47 L. R. A. [N. S.] 200). Schools and School Districts, ↪10.

The St. Paul commission government charter, in providing that one of the six commissioners elected shall be designated by the mayor as commissioner of education, is not violative of this section as introducing nonuniformity in the state educational system (128-82, 150+389). Schools and School Districts, ↪10.

§ 2. School and swamp lands—School funds from sale of—Revolving fund—The proceeds of such lands as are or hereafter may be granted by the United States for the use of schools within each township in this state shall remain a perpetual school fund to the state; and not more than one-third of said lands may be sold in two years, one-third in five years, and one-third in ten years; but the lands of the greatest valuation shall be sold first: Provided, that no portion of said lands shall be sold otherwise than at public sale. The principal of all funds arising from sales or other disposition of lands or other property, granted or intrusted to this state in each township for educational purposes, shall forever be preserved inviolate and undiminished; and the income arising from the lease or sale of said school land shall be distributed to the different townships throughout the state, in proportion to the number of scholars in each township, between the ages of five and twenty-one years; and shall be faithfully applied to the specific objects of the original grants or appropriations. Suitable laws shall be enacted by the legislature for the safe investment of the principal of all funds which have heretofore arisen or which may hereafter arise from the sale or other disposition of such lands, or the income from such lands accruing in any way before the sale or disposition thereof, in interest-bearing bonds of the United States, or of the state of Minnesota issued after the year 1860, or of such other state as the legislature may by law from time to time direct. All swamp lands now held by the state, or that may hereafter accrue to the state, shall be appraised and sold in the same manner and by the same officers, and the minimum price shall be the same less one-third, as is provided by law for the appraisal and sale of the school lands under the provisions of title one

of chapter thirty-eight of the General Statutes. The principal of all funds derived from sales of swamp lands as aforesaid shall forever be preserved inviolate and undiminished. One-half of the proceeds of said principal shall be appropriated to the common school fund of the state; the remaining one-half shall be appropriated to the educational and charitable institutions of the state in the relative ratio of cost to support said institutions.

A revolving fund of not over two hundred fifty thousand dollars (\$250,000) may be set apart from the fund derived from the sale of school and swamp lands, to be used in constructing roads, ditches and fire breaks in, through and around unsold school and swamp lands and in clearing such lands, such fund to be replenished as long as needed from the enhanced value realized from the sale of such lands so benefited.

As amended November 2, 1875, November 8, 1881, and November 7, 1916.

Rights acquired by school district in condemnation proceedings for the appropriation of state land are equivalent to a public sale and the statute authorizing the appropriation is not violative of this section (124-271, 144+960). Eminent Domain, §46.

§ 3. Public schools in each township—No appropriation for sectarian schools—

This provision is mandatory on the legislature, and not a mere grant of power. G. S. §§ 2820, 2823, providing that one or more rural school districts may become associated with a high school for the purpose of affording education in agriculture, etc., and such associated school may charge tuition for nonresident pupils, which shall be a charge against the school district from which such nonresident pupils come, is within the legislative power. The power of the legislature in establishing schools in local communities is not confined to the common branches (122-254, 142+325, 47 L. R. A. [N. S.] 200). Schools and School Districts, §9, 10.

St. Paul commission government charter, in providing that the mayor shall designate one of the members of the council as commissioner of education, is not violative of this section, in that it introduces nonuniformity in the state school system (128-82, 150+389). Schools and School Districts, §10.

§ 4. University of Minnesota—

The university is a governmental function, and property may be taken for its use under the power of eminent domain (125-194, 145+967). Eminent Domain, §40.

§ 6. Investment of school funds—The permanent school and university fund of this state may be invested in the bonds of any county, school district, city, town, or village of this state, and in first mortgage loans secured upon improved and cultivated farm lands of this state. But no such investment or loan shall be made until approved by the board of commissioners designated by law to regulate the investment of the permanent school fund and the permanent university fund of this state; nor shall such loan or investment be made when the bonds to be issued or purchased would make the entire bonded indebtedness exceed 15 per cent of the assessed valuation of the taxable property of the county, school district, city, town or village issuing such bonds; nor shall any farm loan, or investment be made when such investment or loan would exceed 30 per cent of the actual cash value of the farm land mortgage to secure said investment; nor shall such investments or loans be made at a lower rate of interest than 3 per cent per annum, nor for a shorter period than five years, nor for a longer period than thirty years, and no change of the town, school district, city, village or of county lines shall relieve the real property in such town, school district, county, village or city in this state at the time of issuing of such bonds from any liability for taxation to pay such bonds.

Adopted November 3, 1896. Amended November 8, 1904, and November 7, 1916.

That resolution, under G. S. 1913 §§ 1882, 1885, provided that first of series of bonds should mature in less than five years, did not invalidate bonds, where subsequent resolution changed form of bonds so as to comply with requirement of constitution (122-59, 141+1105). Schools and School Districts, §97.

§ 7. Timber lands—State forests—Such of the school and other public lands of the state as are better adapted for the production of timber than for agriculture may be set apart as state school forests, or other state forests, as the Legislature may provide, and the Legislature may provide for the management of the same on forestry principles. The net revenue therefrom shall be used for the purposes for which the lands were granted to the state.

Adopted November 3, 1914.

ARTICLE 9

FINANCES OF THE STATE, AND BANKS AND BANKING

§ 1. Power of taxation—

132-232, 156+128.

Generally—The state may require its municipal subdivisions to raise and disburse money for the performance of duties of state concern (122-254, 142+325, 47 L. R. A. [N. S.] 200). Municipal Corporations, [§64](#).

A license tax imposed by a city on vehicles, the proceeds of which are to be used in maintaining the city streets, is not unreasonable as to resident owners of vehicles habitually used on the city streets, because all the licenses issued expire at the same time, and because it fixes a minimum of one-quarter of the annual tax for use for a portion of a year (134-296, 159+627). Licenses, [§7\(1\)](#).

The legislature has power to impose a wheelage tax upon vehicles, and to provide that the proceeds shall be used for the maintenance of highways (134-296, 159+627). Licenses, [§5](#).

“Local improvements”—An assessment for special benefits from a public ditch is a “local improvement” within this section (162+686). Drains, [§82\(5\)](#).

Special assessments—Special assessments for improvements must be limited to benefits, and, if in excess of benefits, there is a taking of property without compensation (129-40, 151+545, Ann. Cas. 1916B, 189). Eminent Domain, [§2\(11\)](#).

G. S. § 6286, exempting cemetery associations from assessments for local improvements, is not violative of this section (134-441, 159+962). Municipal Corporations, [§407\(1, 2\)](#).

The exemption of public school property from taxation does not apply to special assessments for local improvements (133-386, 158+635, L. R. A. 1916F, 861). Municipal Corporations, [§426](#).

Sections 2348, 2349, G. S. 1913, do not contravene this section because a person may be singled out by a disinterested complainant, and his property reassessed on a basis different from that of other property (121-421, 141+839). Taxation, [§40](#).

St. Paul Charter tit. 3 c. 6 §§ 7, 23, as amended, relating to assessments for local improvements, held not to discriminate between different property owners, in violation of this section (123-1, 142+836). Municipal Corporations, [§407\(2\)](#).

An assessment for a sidewalk made on the basis of frontage is not illegal (124-471, 145+377). Municipal Corporations, [§469\(4\)](#).

City charter provision for assessment of cost of sewers and street improvements on the abutting property according to frontage does not infringe the requirement as to uniformity, where the requirement that the assessment shall not exceed the benefits is not violated. Apportionment of cost of improvement of side street between corner lot and inside lots to center of block is not violative of the requirement as to uniformity (129-40, 151+545, Ann. Cas. 1916B, 189). Municipal Corporations, [§407\(2\)](#).

Equality and uniformity—An ordinance imposing a wheelage tax on vehicles, the proceeds of which were to be applied to the maintenance of the city streets, does not violate the provision of this section requiring uniformity of taxes on the same class of subjects (134-296, 159+627). Licenses, [§7\(2\)](#).

G. S. 1913, requiring a school district, sending pupils to another district maintaining a school for training in agriculture and domestic science, to pay a tuition charge for such pupils, is not violative of the requirement of uniformity of taxation (122-254, 142+325, 47 L. R. A. [N. S.] 200). Taxation, [§40\(4\)](#).

To construe G. S. 1913 § 1974, as including a membership in the Duluth Board of Trade, would not violate the equality clause of this section (124-398, 145+108, 50 L. R. A. [N. S.] 255, Ann. Cas. 1915C, 538). Taxation, [§40\(7\)](#).

The classification for taxation must be reasonable, and such as is based on essential differences. Section 1988, G. S. 1913, does not involve an unreasonable classification (128-384, 150+1087). Taxation, [§394](#).

Double taxation of memberships in the Minneapolis Chamber of Commerce (see 161+516). Taxation, [§47\(1\)](#).

Double taxation; gross earnings tax (129-30, 151+410). Taxation, [§47\(7\)](#).

§ 3. Property subject to taxation—

A membership in the Duluth Board of Trade is property which the legislature, under the constitution, may tax (124-398, 145+108, 50 L. R. A. [N. S.] 255, Ann. Cas. 1915C, 538). Taxation, [§67](#).

§ 5. Public debt may be contracted—

An order of a county board, establishing a state rural highway under G. S. 1913 § 2603 et seq., is not affected by the amount to the county's credit in the state road and bridge fund for the current year (125-325, 146+1110). Highways, [§99](#).

1913 c. 257, authorizing the construction of a railway for the use of the University of Minnesota is not violative of the inhibition as to internal improvements; that prohibition not extending to the performance of the state's governmental functions (125-194, 145+967). States, [§119](#).

§ 8. Application of loans—

G. S. 1913 § 2696, directing a division of the funds in the hands of treasurer of a school district between the old district and a new district created therefrom, is within the legislative power (126-209, 148+53). Schools and School Districts, ☞41(1).

§ 9. Payments out of treasury—

This section has no application to the issuance by the state auditor of a warrant on the state treasurer for the distribution of the gross earnings tax imposed on suburban railroad companies by G. S. 1913 § 2235 (125-67, 145+607). States, ☞130.

§ 10. State credit not to be loaned—

1913 c. 567 (§ 5541), in so far as it changes the mode of payment of compensation under existing contracts for the construction of drainage works, held not invalid as the bestowal of a private gratuity out of the public funds without the subserving of a public purpose (123-59, 142+945). Counties, ☞153½.

§ 14b. Municipal debts in aid of railroads—

125-351, 145+609, 50 L. R. A. (N. S.) 143.

§ 16.

An order of a county board establishing a state rural highway is not affected by the amount to the county's credit in the state road and bridge fund for the current year (125-325, 146+1110). Highways, ☞99.

ARTICLE 10

CORPORATIONS HAVING NO BANKING PRIVILEGES

§ 3. Liability of stockholders—

132-9, 155+754; 127-346, 149+462, Ann. Cas. 1916C, 565; notes under G. S. 1913, § 6176.

Liability in general—Where a mercantile corporation sold products to a telephone company, and took stock in the latter company in payment, and the transaction was conducted by the authorized officers of the mercantile company, and was acquiesced in by its stockholders for nearly five years, the mercantile company is estopped to deny its liability as a stockholder under this section (161+713). Corporations, ☞262(1), 269(3).

What is a "manufacturing corporation"—The sale and transfer of his stock does not release a stockholder from the liability imposed by this section for debts of the corporation existing while he was a stockholder; but such liability is secondary to that of the transferee, and the liability of both is secondary to that of the corporation, and hence such stockholder stands in the position of a surety, and he may be released by the act of a creditor in granting an extension of time to the corporation, without his consent. The burden of proof of lack of such consent is on the stockholder, and in the present case, held, that the evidence does not show want of consent (135-339, 160+1014). Corporations, ☞244(1).

A corporation organized to conduct a general manufacturing business, and to generate and distribute electric energy, and to furnish electrical appliances of all kinds, and to act as electrical contractor and engineer, as well as other business specially authorized, is not a manufacturing corporation within this section; and its stockholders are liable to corporate creditors to the amount of their stock (161+223). Corporations, ☞219.

A corporation organized to generate electricity for distribution to the public is a "manufacturing corporation" under this section, though it possesses the power of eminent domain (125-20, 145+611). Corporations, ☞219.

Limitations in favor of stockholders—Accrual of action—Cause of action under this section accrues, so as to set limitations running, at time of declaration of insolvency and appointment of receiver, and not merely from date of assessment against stockholders (161+498). Limitation of Actions, ☞58(4).

§ 4. Lands taken for public way—

124-271, 144+960.

Where a side track becomes a part of the trackage of a railroad, to be operated as a part of its railway system, the taking of property therefor is a taking for a public use (135-323, 160+866). Eminent Domain, ☞20(5).

ARTICLE 11

COUNTIES AND TOWNSHIPS

§ 1. Organization—

Cited (125-407, 147+815, L. R. A. 1915B, 401).

Cited (131-287, 155+92) on the proposition as to whether illegally marked ballots are to be counted in determining whether a majority of the votes cast at an election favored a particular proposition. Intoxicating Liquors, ☞35.

§ 3. Organization of townships—

The township constitutes a political subdivision of the state, and its powers and the manner of the exercise thereof is under legislative control, and it can exercise no powers not expressly or impliedly granted by statute; and the authority of its officers is likewise limited (133-270, 158+392):

§ 4. Election of county and township officers—

132-426, 157+652; note under art. 7 § 9.

G. S. 1913 §§ 809, 810, fixing the terms of certain county officers at four years, and operating prospectively, is not violative of this section or of art. 7 § 9 (133-65, 157+907). Counties, \Leftrightarrow 65.

Sections 2348, 2349, G. S. 1913, authorizing appointment of a special assessor by the tax commission, is not violative of this section (121-421, 141+839).

ARTICLE 13**IMPEACHMENT AND REMOVAL FROM OFFICE****§ 1. Impeachment of certain state officers—**

Cited. (124-73, 144+453).

§ 2. Removal—

While this section is applicable to elective city officers, it does not embrace an office created by ordinance, such as the supervisor of waterworks in the city of Minneapolis (124-73, 144+453). Municipal Corporations, \Leftrightarrow 176(6).

ARTICLE 14**AMENDMENTS TO THE CONSTITUTION****§ 1. Submission to the people—**

Cited (131-287, 155+92) on the proposition as to whether illegally marked ballots are to be counted in determining whether a majority of the votes cast have favored the measure submitted. Intoxicating Liquors, \Leftrightarrow 35.

ORGANIC ACT OF MINNESOTA

§ 1.

122-483, 142+925; 205 Fed. 5, 123 C. C. A. 313, 45 L. R. A. (N. S.) 112, affirming (C. C.) 188 Fed. 356.