

REVISED LAWS OF MINNESOTA 94

SUPPLEMENT 1909

CONTAINING

THE AMENDMENTS TO THE REVISED LAWS,
AND OTHER LAWS OF A GENERAL AND
PERMANENT NATURE, ENACTED
BY THE LEGISLATURE IN
1905, 1907, AND 1909

WITH HISTORICAL AND EXPLANATORY NOTES TO PRIOR STATUTES
AND FULL AND COMPLETE NOTES OF ALL
APPLICABLE DECISIONS

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2747. Instrument obtained by fraud.

Questions for jury.—This section, requiring the question of negligence to be submitted to a jury, does not dispense with the rule that a verdict must be sustained by reasonable evidence. *Johnson County Savings Bank v. Hall*, 102 Minn. 414, 113 N. W. 1011.

Cited and applied in *Sibley County Bank v. Schaus*, 104 Minn. 438, 116 N. W. 928.

CHAPTER 53.

ESTRAYS AND BEASTS DOING DAMAGE.

MISCHIEVOUS DOGS.

2786. Injury by dogs.

Operation in general.—This section does not change the common-law rule that, where several dogs kill sheep and do other damage jointly, the owner of each is liable only for the damage done by his dog, and a joint action will not lie against the owners of the dogs. The statute merely relieves the plaintiff from the necessity of showing scienter. *Nohre v. Wright*, 98 Minn. 477, 108 N. W. 865.

CHAPTER 54.

UNCLAIMED PROPERTY.

[2804—]1. **Unclaimed money in court, how disposed of—Payment to state treasurer—Escheat.**—In every case where money heretofore has been paid or hereafter shall be paid into any court or to the officer of any court in the state of Minnesota under any statute or order of court for the benefit of or to be paid to any person or persons, and the same shall not have been paid over to the person entitled thereto within five years after the date on which such person is entitled to receive the same it shall be the duty of the clerk or other officer of the court having charge of such money immediately to pay the same into the state treasury. The person entitled thereto or his successor in the right may apply to the court in which such money was deposited at any time within twenty years from the time the money is so paid into the state treasury for an order for the payment of the money to him, and upon the court being satisfied that the party making such application is the person entitled to the money or successor to his right the court shall make an order for the payment of such money to the applicant; and the treasurer upon presentation of a duly certified copy of such order shall pay the same to the person named in said order as entitled to receive the same. In case any money so paid to the treasurer shall not so be claimed by the person entitled thereto within such twenty years it shall escheat to the state. ('09 c. 420 § 1)

Historical.—"An act relating to payment to the state treasurer of moneys heretofore paid or hereafter to be paid into court or to an officer of a court and for the escheat of certain of such moneys to the state of Minnesota." Approved April 22, 1909.

Ch. 51) INTEREST AND NEGOTIABLE INSTRUMENTS. § [2746—]1

other evidences of indebtedness, falling due or maturing on Good Friday, Thanksgiving Day, Sunday, or on any legal holiday, shall be deemed due or maturing on the next succeeding business day; and when Sunday and one or more legal holidays, or two or more legal holidays, fall on the same day, the following day shall be deemed a legal holiday, and when Sunday and one or more legal holidays, or two or more legal holidays, immediately succeed each other, then such instrument, paper or indebtedness shall be deemed as due or maturing on the day following the last of such days. ('05 c. 345 § 1)

Historical.—Section 2 of Laws 1903, c. 261, was amended, as above set forth, by section 1 of Laws 1905, c. 345.

See note under section [2746—] 1.

2741. Demand notes—Presentment and dishonor.—When a promissory note is payable on demand, presentment for payment must be made within five months after the date thereof, or the indorser will be discharged, and if made within said period the presentment and demand shall be deemed to have been made within a reasonable time. Any act, neglect, or other thing, occurring within such five months, which by the rules of law and the custom of merchants would excuse presentment of a note payable at a fixed time, shall be deemed a dishonor of such demand; and the several indorsers thereof, upon due notice of its dishonor, shall be liable in the same manner and to the same effect, and not otherwise, as upon the dishonor of a promissory note payable at a fixed time. (R. L. § 2741, as amended by Laws 1909, c. 436, § 1.)

Section 2 repeals inconsistent acts.

2746. No days of grace.

See section [2746—] 1.

[2746—]1. **Same.**—No promissory note, draft, check, acceptance, bill of exchange or other evidence of indebtedness, shall be entitled to days of grace, but the same shall be payable at the time fixed therein without grace. ('05 c. 345 § 1)

Historical.—Section 1 of an act entitled "An act to amend chapter 261 of the General Laws of Minnesota for 1903, entitled 'An act abolishing days of grace and fixing the maturity of negotiable instruments and other evidences of indebtedness,'" approved April 18, 1905 (Laws 1905, c. 345), enacts: "That chapter 261 of the General Laws of Minnesota for 1903, entitled 'An act abolishing days of grace and fixing the maturity of negotiable instruments and other evidences of indebtedness except drafts drawn at sight,' be and the same is hereby amended as follows: That section one of said chapter 261 be and the same is hereby amended to read as follows: Section 1. [As above set forth.] That section two of said chapter 261 be and the same is hereby amended so as to read as follows: Section 2. (As set forth in section [2739—]1)."

By section 2 of said act, all acts and parts of acts inconsistent therewith are repealed. By section 3, it is provided that the act shall take effect and be in force from and after June 30, 1905.

The above is the enrolled bill signed by the Governor, but it differs from that passed by the Legislature in this respect: In the bill passed by the Legislature the words "except drafts drawn at sight" followed immediately after the word "indebtedness" in section 1 as it purports to be amended by this act, instead of where it appears now, as part of the title of the amended act. The question as to whether this mistake of enrollment invalidated the act having been submitted to the Attorney General, he gave it as his opinion that the first amended section [section 2746—]1, only is invalid; that the first section of chapter 261, General Laws of 1903, remains in force; and that the second amended section [section 2739—]1 is a valid amendment of section 2 of said chapter 261, General Laws of 1903. See note under Laws 1905, c. 345 (official publication).

Section 1 of Laws 1903, c. 261, is as follows: "No promissory note, draft, 'not drawn at sight' check, acceptance, bill of exchange or other evidence of indebtedness, shall be entitled to days of grace, but the same shall be payable at the time fixed therein without grace."

Laws 1903, c. 261, was repealed by R. L. 5546, its provisions being incorporated in sections 2739, 2746. So far as the amended sections, designated as sections [2739—]1, [2746—]1, differ from the Revised Laws, they are to be construed, by virtue of section 5504, as amendatory or supplementary.