

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

COMPILED AND ANNOTATED BY
FRANCIS B. TIFFANY

ST. PAUL
WEST PUBLISHING CO.

1910

or to the authorized agent of such person; and any person failing or refusing to so deliver the same when demanded shall be deemed guilty of a misdemeanor and upon conviction thereof be punished by imprisonment in the county jail for not less than ten days nor more than ninety days, or by a fine of not less than ten dollars nor more than one hundred dollars. ('05 c. 340 § 3)

[3451—]4. **Recovery of receptacles—Search warrant.**—Whenever any person who has filed for record any such name, mark or device or who has acquired from such person in writing the ownership of such name, mark or device or the right to the exclusive use thereof, or any one representing such person, shall make oath before any magistrate that he has reason to believe and does believe that any receptacle bearing such name, mark or device is being unlawfully used or filled or had in possession by any person such magistrate shall thereupon issue a search warrant to discover and obtain such receptacle; and may also cause the person in whose possession such receptacle shall be found to be brought before him and shall then inquire into the circumstances of such possession, and if it shall be found that such person is guilty of violation of any section of this act he shall be punished as herein prescribed and the possession of the property taken upon such warrant shall be awarded to the owner thereof; but the remedy given by this section shall not be held to be exclusive, and offenders against any provision of this act may also be prosecuted as in case of other misdemeanors. ('05 c. 340 § 4)

[3451—]5. **Receptacle and other terms defined.**—As used in this act, the term receptacle shall include not only bottles, siphons, tins, kegs, one-eighth barrels, quarter barrels, half barrels, barrels, boxes, cans and tubs, but all other receptacles used for holding any of the commodities in this act mentioned; the singular may include the plural and the plural may include the singular; the term person may include corporation; and the requirement for a written transfer, bill of sale, authority or consent means that it shall be signed by the person named in the certificate issued by the secretary of state as provided by section one [3451—1] of this act, or by a transferee claiming under a written transfer signed by such person or by an agent whose authority is in writing signed by such person or such transferee. ('05 c. 340 § 5)

[3451—]6. **Taking deposit.**—The requiring or taking of any deposit for any purpose upon such receptacle shall not be deemed nor held to be a sale either optional or otherwise in any proceeding under this act. ('05 c. 340 § 6)

CHAPTER 66.

HOMESTEAD EXEMPTION.

3452. Dwelling place exempt—Exceptions.

Rights of wife—Quiet enjoyment.—A wife has an interest in the homestead of herself and husband, although the legal title is in him, and she is entitled to the peaceful and quiet enjoyment thereof. Any unlawful invasion of such right is a legal wrong against her. *Lesch v. Great Northern R. Co.*, 97 Minn. 503, 106 N. W. 955, 7 L. R. A. (N. S.) 93.

Separate tracts.—Two separate 10-acre parcels, touching only at the corners, between which is a roadway, if owned, occupied, and cultivated as one farm, may constitute a homestead, although the residence and appurtenances are all located upon one tract. *Brixius v. Reimringer*, 101 Minn. 347, 112 N. W. 273, 118 Am. St. Rep. 629.

MINNESOTA REVISED LAWS SUPPLEMENT 1909

Ch. 67) CHATTEL MORTGAGES AND CONDITIONAL SALES. § 3477

3453. Area, how limited.—Such homestead may include any quantity of land not exceeding eighty acres, and not included in the laid out or platted portion of any incorporated city, village or borough. If it be within the laid out or platted portion of such incorporated place having five thousand inhabitants or over, its area shall not exceed one-third of an acre, and if it be within the laid out or platted portion of such incorporated place containing fewer than five thousand inhabitants, the area so exempted shall not exceed one-half of an acre. (R. L. § 3453, as amended by Laws 1907, c. 335, § 1.)

3456. No alienation without consent of spouse—Exceptions.

G. S. 1894, § 5521, cited in *Fred v. Bramen*, 97 Minn. 484, 107 N. W. 159, 114 Am. St. Rep. 740.

Alienation without consent of spouse.—An attempted conveyance of his homestead by a married man without his wife's signature is void, although at the time she may have abandoned him and her home, and may be living in adultery. *Murphy v. Renner*, 99 Minn. 348, 109 N. W. 593, 8 L. R. A. (N. S.) 565, 116 Am. St. Rep. 418.

3458. Sale or removal permitted—Notice.

Abandonment.—Evidence held not to show that owner of homestead ceased to occupy it for six months. *Jaenicke v. Fountain City Drill Co.*, 106 Minn. 442, 119 N. W. 60.

Sale—Garnishment of proceeds.—Prior to the Revised Laws, garnishment reached money owing by the garnishee, which was derived from the sale of the homestead of defendants, and which defendants intended at the time of the service of garnishee summons to use in the purchase of another homestead within one year from the time the premises were sold. *Fred v. Bramen*, 97 Minn. 484, 107 N. W. 159, 114 Am. St. Rep. 740.

CHAPTER 67.

CHATTEL MORTGAGES AND CONDITIONAL SALES.

CHATTEL MORTGAGES.

3461. Mortgages, when void.

Effect of filing.—A purchaser of grain from the mortgagor, without knowledge that it was mortgaged, except constructive notice by the record, is not protected as an innocent purchaser by the mere fact that the mortgagee permitted the mortgagor to thresh and sell the grain. *Endreson v. Larson*, 101 Minn. 417, 112 N. W. 628, 118 Am. St. Rep. 631.

Lease construed, and held constructive notice to an assignee thereof of the lien of the lessor on personal property of the lessee. *Stees v. Lind*, 106 Minn. 485, 119 N. W. 67.

Description.—The description was sufficient to enable a third party, aided by inquiries which the instrument suggested, to identify the property. *Barrett v. Magner*, 105 Minn. 118, 117 N. W. 245.

Validity—Future earnings.—A mortgage is void, at least against creditors without actual notice, which purports to assign, to secure a specified debt, all the future earnings of a threshing machine, therein described, also of any other threshing machine operated by the mortgagor, and of the crew, including men and teams, operating them, which may accrue for threshing during the then ensuing two years within three designated townships. *Dyer v. Schneider*, 106 Minn. 271, 118 N. W. 1011, 20 L. R. A. (N. S.) 505.

CONDITIONAL SALES.

3476. When void unless filed.

Cited in *Dunlop v. Mercer*, 156 Fed. 545, 86 C. C. A. 435.

3477. Notice—Limit of time.

See section [3477—] 1.