

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

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85 Minn. 264, 88 N. W. 761, to the contrary, disapproved. *Wilson v. Walrath*, 103 Minn. 412, 115 N. W. 203.

Cited and applied in *Gilbert v. Gonyea*, 103 Minn. 459, 115 N. W. 640.

See note under section 3503.

3498. With intent to defraud creditors, void.

Who are "other persons."—A wife, after a decree dissolving her marriage and awarding her alimony, may maintain an action to set aside a transfer of property made by her husband pending the divorce action, with intent to render ineffectual any recovery of alimony. *Cochran v. Cochran*, 96 Minn. 523, 105 N. W. 183.

Subsequent creditors.—A subsequent creditor cannot avoid a conveyance merely because it was made with intent to defraud existing creditors, but must show that its purpose was, or its effect will be, to defraud him. *Williams v. Kemper*, 99 Minn. 301, 109 N. W. 242.

Transfer in trust.—A transfer of real or personal property by a debtor to a third party to be held in trust for his use and benefit is void as to existing and subsequent creditors. *Williams v. Kemper*, 99 Minn. 301, 109 N. W. 242.

Good faith.—See *First Nat. Bank of Northfield v. Anderson*, 101 Minn. 107, 111 N. W. 947; *Dorwin v. Patton*, 101 Minn. 344, 112 N. W. 266.

Action to set aside.—If the complaint alleges that the creditor has recovered a judgment against the debtor and that execution has been returned unsatisfied, it need not allege that the debtor is insolvent and has no other property from which the judgment can be paid. *Williams v. Kemper*, 99 Minn. 301, 109 N. W. 242.

Plaintiff must show, by evidence outside of proof of judgment, that the claim on which the judgment was based existed at such a time as to have made him a creditor when the alleged fraudulent transfer was made. He is not required to establish that such claim was valid and enforceable. The grantee is estopped from setting up any defense, including the statute of limitations, which might have been interposed in the original action. *Irish v. Daniels*, 100 Minn. 189, 110 N. W. 968.

Evidence.—That the grantor was solvent is material, but not conclusive. *Quinn v. Minneapolis Threshing Mach. Co.*, 102 Minn. 256, 113 N. W. 689.

3502. Assignment of debt.

Laws 1899, c. 268, cited in *Dickson v. City of St. Paul*, 97 Minn. 258, 106 N. W. 1053.

3503. Sale of stock of merchandise.

Constitutionality.—Laws 1899, c. 291, was constitutional. *Thorpe v. Pennock Mercantile Co.*, 99 Minn. 22, 108 N. W. 940.

Operation in general.—Laws 1899, c. 291, which declared that sales made without compliance with its provisions "will be presumed to be fraudulent and void," made such sales presumptively fraudulent only; the statute merely prescribing a rule of evidence. *Thorpe v. Pennock Mercantile Co.*, 99 Minn. 22, 108 N. W. 940.

The failure of the vendee to secure an inventory, or inquire as to the vendor's creditors and the amount owing each, rendered the sale presumptively fraudulent and void, under section 3496 and 3503. *Gilbert v. Gonyea*, 103 Minn. 459, 115 N. W. 640.

In an action involving the validity of a bulk sale of a stock of goods, which plaintiffs claimed was void under this section, judgment for defendant will be affirmed, where it does not appear that plaintiffs were creditors when the sale was made, and a charge that it was made to defraud creditors was found untrue. *Seabury v. Michaelis*, 106 Minn. 544, 119 N. W. 65.

CHAPTER 69.

LIENS FOR LABOR AND MATERIAL.

FOR IMPROVEMENT OF REAL ESTATE.

3505. Mechanics, laborers and materialmen.

G. S. 1894, § 6237, cited in *Doyle v. Wagner*, 100 Minn. 380, 111 N. W. 275.

See note under section 3511.

Materials furnished, but not used.—The contractor employed plaintiff to do work on ornamental plastering, the major portion of which was done at the

unless there be positive and unequivocal proof both as to the identification of the debt and as to a distinct, unconditional, and present promise to pay. *Pearson v. Tabour*, 98 Minn. 248, 108 N. W. 808.

3484. Contracts for sale of goods, when void.

Contracts within statute.—A contract for clothing, to be made according to stipulated sizes, material, and styles, and to be delivered within a specified time, was not within the statute. *Schloss v. Josephs*, 98 Minn. 442, 108 N. W. 474.

Where a memorandum on its face purported to be for a sale of goods already manufactured, and was void because not signed by the party to be charged, parol evidence was competent to prove that the sellers were manufacturing clothiers only, that the buyer had transacted business with them as such for a number of years, and that the contract was not for the sale of goods already manufactured, but for goods to be manufactured specially for the buyer according to certain sizes, designs and quality. *Becker v. Calmenson*, 102 Minn. 406, 113 N. W. 1014.

Acceptance.—Where, though a contract of sale was not signed by the seller, it was signed by the purchasers and the goods accepted, the contract held not void. *Gilfoil v. Western Mfg. Co.*, 121 N. W. 904.

3487. Conveyance, etc., of land.

G. S. 1894, § 4213, cited in *Laythe v. Minnesota Loan & Investment Co.*, 101 Minn. 152, 112 N. W. 65.

Conveyances—Mortgage.—Where S., being indebted to various banks entered into an oral agreement with them and R., by which he was to execute notes secured by a mortgage on land to R., who was to indorse the notes without recourse to the banks in exchange for S.'s notes held by them, the land to be sold by S. and the proceeds applied to the notes, evidence was admissible to show the oral agreement, and such evidence did not tend to show an express trust resting in parol, in violation of G. S. 1894, § 4213. *First State Bank of Le Sueur v. Sibley County Bank*, 96 Minn. 456, 105 N. W. 485, 489.

Leases.—An agreement pursuant to which an elevator was constructed on railway land held a lease, and within the statute. *Todd v. Bettingen*, 98 Minn. 170, 107 N. W. 1049.

Writings, construed together in the light of surrounding circumstances, held to supply the requirements as to signature and description. *Rees v. Storms*, 101 Minn. 381, 112 N. W. 419.

Gifts.—To take a parol gift of land out of the statute, the donee must not only enter into possession, but also make improvements thereon, or perform such other acts with reference thereto as would make it inequitable not to enforce the gift. *Snow v. Snow*, 98 Minn. 348, 108 N. W. 295.

Trusts.—A verbal promise by a grantee to hold the legal title to land in trust for the benefit of the grantor and to reconvey it on demand, where there is no bad faith except that which arises from a refusal to carry out the promise, is void within the statute of frauds and uses and trusts, and the trust cannot be enforced. Where, however, a party obtains the legal title to land from another by fraud, or by taking advantage of confidential or fiduciary relations, or in any other unconscientious manner, so that he cannot justly retain the property, equity will impress a constructive trust upon it in favor of the party who is equitably entitled to it. *Henderson v. Murray*, 121 N. W. 214.

Agency.—Verbal authority to accept by telegram offer of purchase held not to obviate lack of written authority in agent. A contract so entered into by an agent is enforceable only when there has been a substantial part performance. *Thomas v. Rogers*, 121 N. W. 630.

3488. Leases—Contracts for sale of lands.

Contracts within statute.—An agreement by a husband to enter into a contract in the future for the sale of land owned by his wife is within the statute. *Betcher v. Rinehart*, 106 Minn. 380, 118 N. W. 1026.

Cited in *Thomas v. Rogers*, 121 N. W. 630.

CONVEYANCES FRAUDULENT AS TO CREDITORS.

3496. Of chattels without delivery—Fraud presumed.

Operation in general.—A sale of personal property, the possession thereof remaining in the vendor, is, under this section, presumptively fraudulent and void as against the creditors of the vendor and subsequent purchasers in good faith. This presumption is overthrown when those claiming under such sale make it appear that it was made in good faith and without intent to injure, delay, or defraud creditors or subsequent purchasers. Where a transaction is such as to make this section applicable, the principle that, where one of two innocent persons must suffer, the loss should fall on him whose acts or omissions has made the loss possible, does not apply. The dictum in *Flanigan v. Pomeroy*,

contractor's shop, in making necessary designs, models, and casts. Defendant owner and the contractor adopted the shop as the place for the doing of such preliminary work. After plaintiff had completed his work, a controversy arose between defendant and the contractor, and the contractor refused to permit such product of plaintiff's labor to be placed in the house and it never was delivered upon the defendant's premises. Held, that plaintiff is entitled to a lien on the house and land for the value of all of his labor. *Berger v. Turnblad*, 98 Minn. 163, 107 N. W. 543, 116 Am. St. Rep. 353.

Substantial performance.—Where the contract required delivery of a certificate of license of a patent system, and the contract was substantially performed, a requirement in the order of the trial court for judgment of the delivery of such certificate by the contractor to the owner as a condition precedent to the entry of judgment protected that owner. *Hankee v. Arundel Realty Co.*, 98 Minn. 219, 108 N. W. 842.

3511. Lien statement.

Statement—Designation of law.—The statement need not designate the law under which the lien is claimed, and a reference to Laws 1889, c. 200, as the basis of a lien which arose under the Revised Laws may be rejected as surplusage. *Barndt v. Parks*, 103 Minn. 360, 115 N. W. 197.

— **Time of filing.**—Plaintiffs agreed with the owner in 1902 to make all the improvements, alterations, and repairs which the owner would need in the future at stipulated prices. From time to time up to September, 1903, work was ordered and performed. A bill was presented at the end of the first contract, and afterward about monthly. On November 14, 1903, plaintiffs filed a lien statement. In September, 1903, defendant became the owner of the building under foreclosure. Held, that plaintiffs could enforce a lien only for work done within 90 days next prior to its filing. *Fitzpatrick v. Ernst*, 102 Minn. 195, 113 N. W. 4.

— **Description of premises.**—A description is sufficient if it enables an interested person to locate the property with reasonable certainty. A description giving the correct number of the lot, an erroneous number of the block, and properly describing the addition, together with the number of the building on a street held sufficient. *Doyle v. Wagner*, 100 Minn. 380, 111 N. W. 275.

3514. Summons, pleadings, etc.

Complaint.—An allegation of the complaint that the statement was filed February 26, 1906, and within 90 days after the furnishing and delivery of the last item, is one of fact, and sufficient as against a general demurrer, although the exact date of furnishing the last item is not alleged. The complaint, read in connection with the statement, a copy of which was attached and made part thereof, might be construed as alleging that a statement was duly filed. *Stewart v. Simmons*, 101 Minn. 375, 112 N. W. 282.

3515. Lis pendens, parties, limitation, etc.

Limitation.—Laws 1889, c. 200, § 10, providing that action must be commenced within one year from the time of furnishing the last item, was construed to mean the last item in fact furnished, although the time be not the date stated in the affidavit. *Doyle v. Wagner*, 100 Minn. 380, 111 N. W. 275.

3517. Postponement, judgment, subrogation, etc.

Attorney's fees.—This section authorizes the court to allow reasonable costs to the lien holder, and in fixing the amount thereof it may include, in its discretion, reasonable attorney's fees. *Schmoll v. Lucht*, 106 Minn. 188, 118 N. W. 555.

PERSONALTY IN POSSESSION.

3521-3523. [Superseded.]

See sections [3523—]1 to [3523—]5.

[3523—]1. **For keeping, repairing, etc.**—Whoever at the request of the owner or legal possessor of any personal property shall store or care for or contribute in any of the modes mentioned in the next section to its preservation, care, or to the enhancement of its value, shall have a lien upon such property for the price or value of such storage, care or contribution, and for any legal charges against the same paid by such person to any other person, and the right to retain the property in his possession until such lien is lawfully discharged; but a voluntary surrender of possession shall extinguish

the lien herein given. (Laws 1905, c. 328, § 1, as amended by Laws 1907, c. 114, § 1.)

Historical.—"An act providing for liens on personal property in certain cases and for the enforcement thereof," approved April 19, 1905 (Laws 1905, c. 328), as amended by Laws 1907, c. 114 (approved April 5, 1907).

By Laws 1905, c. 328, § 6, G. S. 1904, §§ 6247, 6248, and all other acts or parts of acts inconsistent therewith are repealed. Said sections 6247, 6248, were sections 1, 2, of Laws 1889, c. 199, which was repealed by R. L. § 5538; the provisions thereof being incorporated in sections 3521 to 3523.

See section 5504.

[3523—]2. For what given.—Such lien and right of detainer shall exist for:

1. Transporting property from one place to another as a common carrier or otherwise;
2. Keeping or storing property as a warehouseman or other bailee;
3. Keeping, feeding, pasturing, or otherwise caring for domestic animals or other beasts, including medical or surgical treatment thereof and shoeing the same;
4. Making, altering or repairing any article, or expending any labor, skill or material thereon.

Such liens shall embrace all lawful charges against such property paid to any other person by the person claiming such lien, and the price or value of such care, storage or contribution and all reasonable disbursements occasioned by the detention or sale of the property. (Laws 1905, c. 328, § 2, as amended by Laws 1907, c. 114, § 2.)

[3523—]3. Sale.—If any sum secured by such lien be not paid within ninety days after it becomes due, the lien holder may sell the property and out of the proceeds of such sale there shall be paid, first, the disbursements aforesaid, and, the second, all charges against said property paid by such person to any other person, and, third, the total indebtedness then secured by the lien. The remainder, if any, shall be paid on demand to the owner or other person entitled thereto. (Laws 1905, c. 328, § 3, as amended by Laws 1907, c. 114, § 3.)

[3523—]4. Sale, when and where made—Notice.—The sale herein provided for shall be made at public auction between 9 o'clock in the morning and 5 o'clock in the afternoon in the county where the property or some part thereof is situated. A notice stating the time and place of sale, the amount which will be due on the date of sale exclusive of the expenses of advertising and sale, and the grounds of the lien, giving a general description of the property to be sold, shall be served personally upon the owner of the property if he can be found within the county in which said property is stored, and if he cannot, then it shall be mailed to the owner thereof at least three weeks before the time fixed for such sale if the place of residence or postoffice address of such owner is known to him or with due diligence can be learned by the person claiming such lien, and shall be published once in each week for three successive weeks in a newspaper printed and published in the county where said property or some part thereof is situated, the last publication of such notice to be at least one week prior to the date of sale; or, if there is no newspaper printed and published in the county, then said notice of sale shall be posted in three of the most public places in the county at least three weeks before the time of sale. In case neither the place of residence nor the postoffice address of such owner is known to the person claiming such lien and cannot with reasonable diligence be learned, the publication or posting of notice as herein provided shall be sufficient to authorize such sale. (Laws 1905, c. 328, § 4, as amended by Laws 1907, c. 114, § 4.)

[3523—]5. **Conduct of sale.**—The property sold as herein provided shall be in view at the time of the sale. Under the power of sale hereby given enough of said property may be sold to satisfy the amount due at the time of sale, including expenses, and said property, if under cover, may be offered for sale and sold in the original packages in the form and condition that the same was received by the lien holder; but after sufficient property has been so sold to satisfy the amount so due no more shall be sold. The lien holder, his representatives or assigns, may fairly and in good faith purchase any property sold under the provisions of this act, provided the sale is conducted by the sheriff, his deputy, or any constable of the county where such sale is made. ('05 c. 328 § 5)

SHOEING ANIMALS.

[3523—]6. **To whom given—Against whom.**—Every person who shall shoe or cause to be shod by his employés any horse, mule, ox or other animal shall have a lien upon the animal shod for his reasonable charge for the shoeing of the same, and each lien conferred by this act shall take precedence of all other claims or liens thereon, not duly recorded prior to the recording of the claim of lien, as hereinafter provided, but such lien shall not attach where the property has changed ownership prior to the filing of such lien. ('07 c. 47 § 1)

Historical.—“An act to provide for liens upon horses and other animals for the cost of shoeing the same.” Approved March 23, 1907.

[3523—]7. **Statement and notice, when and where filed.**—Any person desiring to secure the benefit of this act shall, within six months after the shoeing of such horse, mule, ox or other animal, or in case he shall have shod such animal more than once within that time, then within six months of the last shoeing, file with the township clerk, city clerk, or village recorder as the case may be, in the township, village or city in which such animal is, a statement made under oath by the claimant, or some one in his or her behalf, and a notice of his intention to claim a lien upon such animal for his charges for the shoeing of the same. ('07 c. 47 § 2)

[3523—]8. **To state, what.**—Such statement and notice shall state the name of the person claiming the lien, the name of the owner or reputed owner of the animal sought to be charged with the lien, and a description sufficient for identification of the animal upon which the lien is claimed, and the amount due the claimant, as near as may be, over and above all legal off-sets. ('07 c. 47 § 3)

[3523—]9. **Successive liens.**—Any person may file successive liens upon the same animal for charges for shoeing the same, and he may include in any one claim of lien his charges for any number of times of shoeing such animal; provided, however, that no lien shall be had for any shoeing of any animal done more than six months prior to the filing of the notice of lien. ('07 c. 47 § 4)

[3523—]10. **Duty of clerk—Fees.**—It shall be the duty of the township, city clerk or village recorder, as the case may be, upon the presentation to him of any such statement and notice of lien, to file the same in his office in the same manner as provided by law for the filing and recording of chattel mortgages; and he shall be entitled to charge and receive from the person filing such statement and notice a fee of twenty-five cents, and no more. ('07 c. 47 § 5)

[3523—]11. **Certified copy—Evidence.**—A copy of such statement and notice of lien, filed as aforesaid, certified by the township or city clerk, or recorder as the case may be, shall be received in evidence in any proceeding taken to enforce the lien herein provided

for, but only of the fact that such statement and notice of lien was received and filed according to the indorsements of the township, city clerk or village recorder thereon and of no other fact. ('07 c. 47 § 6)

[3523—]12. Action to enforce—Notice.—The person having such lien shall within six months from and after the date of filing such lien statement, commence suit for the recovery of such charges by summons, in the usual form, before any justice of the peace of the township in which he resides, or in any court, as the case may require, against the person liable for the payment thereof. But before any such lien claimant shall commence any action to foreclose such lien, he shall give the person against whom he proposes to bring such action at least twenty days' notice in writing of his intention to foreclose such lien. ('07 c. 47 § 7)

[3523—]13. Personal service.—If such summons be returned personally served upon the defendant, the same proceedings shall thereon be had in all respects as in other suits commenced by summons, in which there is a personal service of process; the judgment shall be rendered in such suit in like manner as judgments are now rendered in civil actions. ('07 c. 47 § 8)

[3523—]14. When defendant not found.—If the officer return upon such summons that the defendant cannot be found in this county, the same proceedings shall be had in all respects, as near as may be, as in suits commenced by attachment in which there is not a personal service of the attachment upon the defendant, and judgment shall be rendered in such suits in like manner as judgments are now rendered in such actions. ('07 c. 47 § 9)

[3523—]15. Execution and sale.—If the plaintiff recover judgment in such suit, execution shall be issued thereon in the same manner and with like effect as upon judgments now rendered in suits commenced by attachment, and the horse, mule, ox, or other animal, upon which the plaintiff holds such lien, shall not be exempt from execution, but may be sold to satisfy such execution in the same manner as if it had been seized and held upon an attachment in such suit. ('07 c. 47 § 10)

[3523—]16. Expenses.—All expenses which shall have been incurred by the person having such lien after the same had accrued shall be an additional lien upon the property, and shall be computed and ascertained upon the trial or assessment of damages and included in the judgment. ('07 c. 47 § 11)

[3523—]17. Findings—Judgment.—In all suits or attachments prosecuted under the provisions of this act, the court, jury or justice of the peace who shall try the same, or make an assessment of damages therein, shall, in addition to finding the sum due the plaintiff, also find that the same is due for the cost of shoeing the horse, mule, ox, or other animal described in plaintiff's declaration, and is a lien upon the same; provided, however, that if the court, jury, or justice of the peace shall find that the amount due the plaintiff is not a lien upon the property described in the plaintiff's declaration, the plaintiff shall be non-suited thereby, but shall be entitled to judgment, as in other civil actions, but in such case said plaintiff shall not recover or tax any costs other than those allowed and taxable in such case; and in those cases where the amount due is found to be a lien upon the property mentioned in plaintiff's declaration, the finding or verdict may be in the following form: (The court, jurors or justice, as the case may be) say that there is due the sum ofdollars from the said defendant, and that the same is due for plaintiff's reasonable charges for shoeing the animal men-

tioned in plaintiff's declaration (giving a description sufficient for identification of the animal), and that the plaintiff has a lien upon said animal for said amount. ('07 c. 47 § 12)

ON LOGS AND TIMBER.

Sections 3524-3540 cited in *Breckke v. Duluth Log Co.*, 101 Minn. 110, 111 N. W. 949.

See note under section 3527.

3526. Termination of lien.

Cited and applied in *Breckke v. Duluth Log Co.*, 101 Minn. 110, 111 N. W. 949.

See note under section next following.

3527. Action—Attachment.

Attachment.—The attachment proceedings are governed by section 4215 as to the time of issuing the writ, except as modified by section 3526. The remedy is provisional, and the issuance of the writ is not jurisdictional. It may issue at the time of issuing the summons, or at any time thereafter within 90 days from the time of filing the lien. *Breckke v. Duluth Log Co.*, 101 Minn. 110, 111 N. W. 949.

3531. Pleadings—Priority of liens.

Cited in *Breckke v. Duluth Log Co.*, 101 Minn. 110, 111 N. W. 949.

3535a. Submerged, buried or sunken logs—Bond—Lien—Conversion.—Any person desiring to raise or float any submerged, buried or sunken logs or other timber owned by him in any of the waters of this state and being hindered or obstructed in so doing by the logs or timber of another, and any person whose logs are sunken, buried or submerged, and so intermingled with those of another as to make it difficult to raise or float his own without raising and floating all, and who shall have filed in the office of the surveyor general of the log and lumber district wherein such logs or timber is situate a bond in the amount and with sureties approved by such surveyor general conditioned that such person will, on demand and on payment of any lien he may have thereon, deliver to the owners thereof at the nearest convenient place of separation, or the nearest advantageous market, all submerged, buried or sunken logs raised or floated by him in pursuance hereof, or in case such delivery be not so demanded, pay to the owner thereof, in pursuance of and according to the provisions of this section, and who shall from time to time renew such bond or give such additional bond as said surveyor general shall require, may raise and float all such obstructing or mingled logs or timber with his own and transport the same to some safe point where the same may be conveniently sorted and separated or advantageously marketed. And he shall have a lien upon the logs or timber so raised or floated for the reasonable value of his services in raising and floating the same, which shall be asserted and enforced as in the case of other liens upon logs and timber. Any person who shall convert to his own use any logs or timber of another upon which he has a lien under the provisions of this section, and the delivery of which has not been demanded by the owner thereof, shall be liable to the owner of the logs or timber so converted for the full value thereof at the time of such conversion, with interest, less the amount of such lien and payment of the amount of such liability shall be full compensation for all logs or timber so converted. (R. L. c. 69, as amended by Laws 1907, c. 428, § 1.)

Historical.—This chapter was amended, by inserting therein sections to be designated as sections 3535a and 3535b, by section 1 of an act entitled "An act relative to the raising and floating of submerged, sunken or buried logs and other timber in the waters or the beds of any waters in this state, providing a lien therefor and amendatory of chapter 69, Revised Laws 1905," approved April 25, 1907.

3535b. Same—Scaling and marking—Duty of surveyor general—Fees.—Every person who shall engage in raising or floating logs or timber under the provisions of 3535a shall cause all logs and other timber raised or floated by him to be scaled at time of such raising or floating by the surveyor general of the log and lumber district within which such logs or timber is raised or floated, and shall place on each log and piece of timber so raised a suitable log mark, which mark shall only be used on logs or timber so raised or floated. The surveyor general of the proper log and lumber district shall attend in person or by deputy at the raising and floating of such logs or timber, and promptly scale the same, recording the size, kind, and all marks on each piece thereof. For such service said surveyor general shall receive in addition to all fees now allowed by law the further sum of five dollars for each day's attendance under the provisions hereof, and such fees shall be paid by the person so employing him and shall be taken and held to be a part of the cost of raising and floating such logs and timber. Provided, however, that no such work shall be performed within the limits of any operating boom company organized under the laws of the State of Minnesota, except under the supervision and direction of some representative of the boom company within whose limits such work is being carried on. (R. L. c. 69, as amended by Laws 1907, c. 428, § 1.)

See note under section next preceding.

IN OTHER CASES.

3546. For threshing grain.

Constitutionality.—This section does not violate Const. art. 1, §§ 2, 7, 11, or article 4, §§ 33, 34, or Const. U. S. art. 1, § 10, or section 1 of the fourteenth amendment thereof. *Phelan v. Terry*, 101 Minn. 454, 112 N. W. 872.

3547. How preserved and enforced.

Statement.—Statement held sufficient. *Phelan v. Terry*, 101 Minn. 454, 112 N. W. 872.

Foreclosure.—The rules and principles applicable to foreclosure of chattel mortgages apply to proceedings to foreclose the lien. *Phelan v. Terry*, 101 Minn. 454, 112 N. W. 872.

Claim and delivery.—The claimant, having perfected his lien, may maintain claim and delivery to recover the possession of the grain against a person wrongfully detaining it. *Phelan v. Terry*, 101 Minn. 454, 112 N. W. 872.

CHAPTER 70.

MARRIAGE.

3553. Who capable of contracting.

Cited in *State v. Sager*, 99 Minn. 54, 108 N. W. 812.

See note under section 4930.

3562. Record and certificate.—Every person solemnizing a marriage shall make a record thereof, and within one month make and file with the clerk of the district court of the county in which the license was issued a certificate, under his hand, containing the facts mentioned in section 3561, which certificate shall be filed and recorded by said clerk in a book kept by him for that purpose; and said clerk shall be entitled to receive twenty-five cents for recording said certificate from the person offering the same for record. (R. L. § 3562, as amended by Laws 1909, c. 386, § 1.)

Historical.—“An act to amend section 3562, Revised Laws of Minnesota for the year 1905, relating to the recording of marriage certificates.” Approved April 22, 1909.

See section [3562—] 1.