

# MASON'S MINNESOTA STATUTES

1927

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THE GENERAL STATUTES OF 1923

EMBRACING THE ORGANIC LAWS, THE CONSTITUTION, AND THE STAT-  
UTES CONTAINED IN THE GENERAL STATUTES OF 1923, EXCEPT  
THOSE WHICH HAVE BEEN REPEALED OR SUPERSEDED  
BY THE SUBSEQUENT LEGISLATION OF 1925  
AND 1927

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

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ancy. This section shall not apply to mortgages, nor to devises or grants made in trust, or to executors. (3233) [6694]

No estates by entirety (43-398, 45+710; 93-76, 100+662). The plaintiff and the defendant owned a tract of land as tenants in common. They gave a mortgage. Afterwards, defendant gave a mortgage upon his undivided one half to the same bank. The plaintiff paid one half of the mortgage first mentioned. Afterwards it was foreclosed. Within the year of redemption the plaintiff redeemed as part owner. By his redemption he obtained an equitable mortgage upon the undivided one-half interest of defendant for the amount which he paid in redemption and such mortgage is prior to the mortgage by defendant of his undivided one-half. It is held that in this action for partition he is entitled to contribution for taxes and interest and money paid for necessary improvements, but must apply profits made, and for the balance he may have contribution of an undivided half. 160-269, 199+881

No act of one cotenant can impair the rights of the others. 166-153, 207+311.

8075. Nominal conditions disregarded—When any conditions annexed to a grant or conveyance of lands are merely nominal, and evince no intention of actual and substantial benefit to the party to whom or in whose favor they are to be performed, they may be wholly disregarded; and a failure to perform the same shall in no case operate as a forfeiture of the lands conveyed subject thereto. (3234) [6695]

49-301, 51+905; 68-442, 71+682.

8076. Aliens, etc., not to acquire land—Except as hereinafter provided, no person, unless he be a citizen of the United States or has declared his intention to become a citizen, and no corporation, unless created by or under the laws of the United States or of some state thereof, shall hereafter acquire lands, or any interest therein, exceeding ninety thousand square feet, except such as may be acquired by devise or inheritance, and such as may be held as security for indebtedness. But the provisions of this section shall not apply to actual settlers upon farms of not more than one hundred and sixty acres, or to citizens or subjects of a foreign country whose rights to hold lands are secured by treaty. (3235) [6696]

8077. Corporations having alien stockholders, etc.—Except as hereinafter provided, no corporation or association, more than twenty per cent of whose stock is owned by persons not citizens of the United States, or by corporations or associations not created under the laws of the United States or some state thereof, shall acquire lands in this state. (3236) [6697]

76-334, 79+315.

8078. Other corporations—Except as hereinafter provided, no corporation, unless organized for the construction or operation of a railway, canal, or turnpike, shall acquire more than five thousand acres of land; and no railway, canal, or turnpike corporation shall acquire lands, except so much as may be necessary for the proper operation of its railroad, canal, or turnpike, and lands granted to it by the United States or by the state. (3237) [6698]

8079. Exceptions—The prohibitions of §§ 8076-8078 shall not apply to lands acquired by process of law in the collection of debts, or by any procedure for the enforcement of a lien or claim thereon, whether created by mortgage or otherwise, nor to any corporation actually engaged in manufacturing in the state of Minnesota, but such corporation may hold such lands as may be reasonably necessary in the carrying on of its business, nor to any person or corporation engaged in the business of selling lands to actual settlers; provided, that all lands hereafter acquired by such person or corporation not engaged in the business of selling land to actual settlers, or not actually engaged in manufacturing in the state of Minnesota, be disposed of within ten (10) years after acquiring title thereto and that all lands now owned by such person or corporation not engaged in the business of selling land to actual settlers, or not actually engaged in manufacturing in the state of Minnesota, be disposed of within ten (10) years after the approval of this act, and that all lands so held by a corporation actually engaged in manufacturing in the state of Minnesota shall be disposed of within ten (10) years after it shall cease to use the same for the purposes of its business. (R. L. § 3238, amended '07 c. 439; '11 c. 130 § 1) [6699]

8080. Forfeiture—All lands acquired or held in violation of §§ 8076-8079 shall be forfeited to the state, and the attorney general shall enforce such forfeiture; but no such forfeiture shall be adjudged unless the action to enforce the same be brought within three years after such property has been so acquired or so held by such alien or corporation; and no title to land shall be invalid or liable to forfeiture by reason of the alienage of any former owner or person interested therein. (3239) [6700]

CHAPTER 59 A

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8080-1. Management and disposition of property of persons disappearing or absconding and persons disappearing or absconding leaving wife or minor child without support—Petition to district court—Contents—Schedule of property—Time for filing petition—If a person entitled to or having an interest in property within the jurisdiction of the state has disappeared or absconded from the place within or without the state where he was last known to be, and has no agent in

the state, and it is not known where he is, or if such persons, having a wife or minor child, dependent to any extent upon him for support, has thus disappeared or absconded without making sufficient provision for such support, and it is not known where he is, or, if it is known that he is without the state, any one who would under the law of the state be entitled to administer upon the estate of such absentee if he were deceased, or if no one is known to be so entitled, some person deemed suitable by the court, or such wife, or some one in her or such minor's behalf, may file a petition under oath in the district court for the county where any such property is situated or found, stating the name, age, occupation and last known residence or address of such absentee, the date and circumstances of the disappearance or absconding, and the names and residence of other persons, whether members of such absentee's family otherwise, of whom inquiry may be made, whether or not such absentee is a citizen of the United States and if not, of what country he is a citizen or native and containing a schedule of the property, real and personal, so far as known, and its location within the state, and praying that such property may be taken possession of and a receiver thereof appointed under this chapter. Provided that no proceedings shall be commenced under the provisions of this act, until at least 3 months after the date on which it is alleged in such petition that such person so disappeared or absconded. ('25, c. 262, § 1)

**8080-2. Same—Warrant by court to sheriff to take possession of property—Fees and costs—**The court may thereupon issue a warrant directed to the sheriff or his deputy, which may run throughout the state, commanding him to take possession of the property named in said schedule and hold it subject to the order of the court and make return of said warrant as soon as may be with his doings thereon with a schedule of the property so taken. The officer shall post a copy of the warrant upon each parcel of land named in the schedule and cause so much of the warrant as relates to land to be recorded in the office of the register of deeds for the county where the land is located. He shall receive such fees for serving the warrant as the court allows, but not more than those established by law for similar service upon a writ of attachment. If the petition is dismissed, said fees and the cost of publishing and serving the notice hereinafter provided shall be paid by the petitioner if a receiver is appointed, they shall be paid by the receiver and allowed in his account. ('25, c. 262, § 2)

**8080-3. Same—Notice of seizure of property, and appointment of receiver and disposition of property—**Upon the return of such warrant, the court may issue a notice reciting the substance of the petition, warrant and officer's return, which shall be addressed to such absentee and to all persons who claim an interest in said property, and to all whom it may concern, citing them to appear at a time and place named and show cause why a receiver of the property named in the officer's schedule should not be appointed and said property held and disposed of under this chapter. ('25, c. 262, § 3)

**8080-4. Same—Publication of notice—**The return day of said notice shall be not less than thirty nor more than sixty days after its date. The court shall order said notice to be published once in each of three successive weeks in one or more newspapers within the state, and to be posted in two or more conspicuous places in the county within the state where the absentee last resided or was known to have been either

temporarily or permanently and upon each parcel of land named in the officer's schedule, and a copy to be mailed to the last known address of such absentee. In all cases where such absentee is not a citizen of the United States, then a copy of such notice shall be ordered by the court to be served within said time by mail on the consular representative of the foreign country of which such absentee is a citizen, if there be one in this state, otherwise on the Secretary of State, who shall forward the same to the chief diplomatic representatives of such country at Washington. The court may order other and further notice to be given within or without the state. ('25, c. 262, § 4)

**8080-5. Same—Hearing by court—Dismissal of proceeding—Appointment and bond of receiver—**The absentee or any person who claims an interest in any of the property may appear and show cause why the prayer of the petition should not be granted. The court may after hearing dismiss the petition and order the property in possession of the officer to be returned to the person entitled thereto, or it may appoint a receiver of the property which is in the possession of the officer and named in his schedule. If a receiver is appointed the court shall find and record the date of the disappearance or absconding of the absentee; and such receiver shall give a bond to the state in such sum and with such condition as the court orders, to be approved by the court. In the appointment of such receiver, the court shall give preference to the wife of such absentee, if she is competent and suitable. ('25, c. 262, § 5)

**8080-6. Same—Possession of property by receiver—**After the approval of such bond the court may order the sheriff or his deputy to transfer and deliver to such receiver the possession of the property under the aforesaid warrant, and the receiver shall file in the office of the clerk of court a schedule of the property received by him. ('25, c. 262, § 6)

**8080-7. Same—Additional property—Receiver to take possession of—**Such receiver upon petition filed by him may be authorized and directed to take possession of any additional property within the state which belongs to such absentee and to demand and collect all debts due such absentee from any person within the state, and behold [hold] the same as if it had been transferred and delivered to him by the officer. ('25, c. 262, § 7)

**8080-8. Same—Procedure where absentee leaves no corporeal property—Receiver—bond—**If such absentee has left no corporeal property within the state, but there are debts and obligations due or owing to him from persons within the state, a petition may be filed as provided in section one, stating the nature and amount of such debts and obligations, so far as known, and praying that a receiver thereof may be appointed. The court may thereupon issue a notice as above provided, without issuing a warrant, and may, upon the return of said notice and after a hearing, dismiss the petition or appoint a receiver and authorize and direct him to demand and collect the debts and obligations specified in said petition. The receiver shall give bond as provided in Section 5, and shall hold the proceeds of such debts and obligations and all property received by him, and distribute the same as hereinafter provided. He may be further authorized and directed as provided in the preceding section. ('25, c. 262, § 8)

**Explanatory note—**For sections 1 and 5, see §§ 8080-1, 8080-5, herein.

**8080-9. Same—Care, lease, or sale of property—**The court may make orders for the care, custody,

leasing and investing of all property and its proceeds in the possession of the receiver. If any of said property consists of live animals or is perishable or cannot be kept without a great or disproportionate expense, the court may, after the return of the warrant, order such property to be sold at public or private sale. After the appointment of a receiver, upon his petition and after notice, the court may order all or part of said property, including the rights of the absentee in land, to be sold at public or private sale to supply money for payments authorized by this chapter or for reinvestment approved by the court. ('25, c. 262, § 9)

**8080-10. Same—Use of proceeds of sale to support family and pay debts**—The court may order said property or its proceeds acquired by mortgages, lease or sale to be applied in payment of charges incurred or that may be incurred in the support and maintenance of the absentee's wife and minor children, and to the discharge of such debts and claims for alimony as may be proved against said absentee. ('25, c. 262, § 10)

**8080-11. Same—Claims—Adjustment by receiver**—The court may authorize the receiver to adjust by arbitration or compromise any demand in favor of or against the estate of such absentee. ('25, c. 262, § 11)

**8080-12. Same—Compensation of receiver—Title of absentee lost after ten years**—The receiver shall be allowed such compensation and disbursements as the court orders, to be paid out of said property or proceeds. If within ten years after the date of the disappearance and absconding as found and recorded by

the court, such absentee appears, or an administrator, executor, assignee in insolvency or trustee in bankruptcy of said absentee is appointed, such receiver shall account for, deliver and pay over to him the remainder of said property. If said absentee does not appear and claim said property within said ten years, all his right, title and interest in said property, real or personal, or the proceeds thereof shall cease, and no action shall be brought by him on account thereof. ('25, c. 262, § 12)

**8080-13. Same—Distribution of balance of property**—If at the expiration of said ten years said property has not been accounted for, delivered or paid over under the preceding section, the court shall order the distribution of the remainder to the persons to whom, and in the shares and proportions in which, it would have been distributed if said absentee had died intestate within the state on the day ten years after the date of the disappearance or absconding as found and recorded by the court.

If such receiver is not appointed within nine years after the date found by the court under Section five, the time limited for accounting for, or fixed for distributing, said property or its proceeds, or for barring actions relative thereto, shall be one year after the date of the appointment of the receiver instead of the ten years provided in the two preceding sections.

The provisions of this act shall not be construed as exclusive, but as providing additional and cumulative remedies. ('25, c. 262, § 13)

**Explanatory note**—For section 5 see § 8080-5, herein.

CHAPTER 60

USES AND TRUSTS

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**8081. Uses and trusts abolished—Exception**—Uses and trusts, except as authorized and modified in this chapter, are abolished; and every estate and interest in lands shall be deemed a legal right, cognizable as such in the courts of law, except when otherwise provided by statute. (3240) [6701]

All express trusts in both real and personal property, including charitable trusts are abolished, except as authorized by this chapter (69-141, 71+1031; 81-7, 83+460; 88-202, 92+948; 88-318, 92+1122; 93-210, 100+1104; 95-220, 103+882). Chapter cited generally (37-447, 452, 35+260; 52-208, 53+1145; 68-260, 71+22; 88-202, 212, 92+948; 88-318, 323, 92+1122; 93-210, 221, 100+1104). 128-99, 150+233, 163-35, 203+439.

It is further held, that the finding of the jury defeats the contention of appellants that there was a constructive trust, and consequently a legal fraud. 159-149, 198+412.

The common law, as to trusts in real or personal property, or both, prevailed in our territory from our beginning up to the enactment of chapter 43 and chapter 44. R. S. 1851. 160-343, 200+76.

Chapter 53, Laws 1875, being subdivision 5 of section 6710, G. S. 1913, abolished personal property trusts, except as authorized by statute. 160-343, 200+76.

**8082. Executed trusts confirmed**—Every estate which is now held as a use executed under laws as