

Nineteen Hundred Thirty-One
Supplement

to

Mason's Minnesota Statutes

(1927 thru 1931)

Containing the text of the acts of the 1929 and 1931 Sessions of the
Legislature, both new and amendatory, and notes showing repeals,
together with annotations from the various courts, state
and federal, construing the constitution, statutes,
charters and court rules of Minnesota



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One obtaining new certificate under Torrens Act, after purchase at mechanic's lien foreclosure, had good title as against parties in possession who were not made defendants though they were claiming under unrecorded transfer from the record owner and his transferee; and a judgment in an action to which the mechanic's lien claimant or his successor was not made a party and of which the records contained no notice did not affect the title. 174M22, 218NW246.

PERSONALTY IN POSSESSION

§8507. For keeping, repairing, etc.

One repairing automobile at instance of conditional vendee has a lien under §8507 prior to the right of the vendor, but his lien is lost by surrender of possession and he has a lien under §8524, but no priority over conditional vendor. 177M217, 225NW15.

MOTOR VEHICLES

§8524. To whom given—For what services rendered.

One repairing automobile at instance of conditional vendee has a lien under §8507 prior to the right of the vendor, but his lien is lost by surrender of possession, and he has a lien under §8524, but no priority over conditional vendor. 177M217, 225NW15.

§8526. Foreclosure.

Holder of lien on motor vehicle was not entitled to possession until the commencement of the action to foreclose and where machine was converted by lien claimant, his lien is not a defense in trover. 174M11, 218NW172.

§8527. Sheriff to serve copy of notice of sale.—At or before posting the notice of sale, the sheriff shall serve a copy of said notice of sale on the judgment debtor—if he be a resident of the county, or can be found therein, in the manner required by law for the service of a summons in a civil action in the district court. (As amended Apr. 23, 1929, c. 302, §1.)

IN OTHER CASES

§8555.—Lien for threshing grain, etc.—Any person owning or operating a threshing machine, clover huller, corn picking machine, corn sheller, corn shredder or hay baler shall have a lien upon the grain threshed, clover hulled, corn shelled or shredded, or picked, or hay baled, as the case may be, for the price or value of such service, which shall be preferred to all other liens or incumbrances

except those given for seed from which said grain was grown. (As amended Apr. 24, 1929, c. 314, §1.)

§8556. How preserved and enforced.—Within fifteen days after such threshing, clover hulling, corn picking, corn shelling or shredding, or hay baling is completed the claimant of such lien shall file with the Register of Deeds of the County in which it was done a verified statement of the amounts and kinds of grain threshed, clover hulled, corn picked, corn shelled or shredded, or hay baled, the time and place of doing the same, giving the first and last days thereof, the rates per bushel, per day, per hour or other terms of the contract and the total charge therefor, the amounts paid thereon, if any, and the balance due, the name of the reputed owner and of the person requesting the work to be done, and a notice that a lien is claimed for the amount remaining unpaid. A certified copy of such statement shall authorize the seizure and sale of so much of the grain, clover, corn or hay covered by the lien as may be necessary to satisfy the same, with reasonable costs and expenses, but such seizure must be made, or an action to foreclose be commenced, within six months after such filing. The cost and the expenses above referred to shall include an attorney's fee amounting to 15 per cent of the amount of the lien claimed in the event such lien is not paid within 90 days after the filing thereof and the lien claimant employs an attorney-at-law to collect the same. So far as applicable thereto, the laws relating to the enforcement of chattel mortgages shall govern the foreclosure of liens hereunder. Any person secreting or disposing of property covered by such lien, without the consent of the lienholder, shall be guilty of a misdemeanor, the minimum penalty whereof shall be a fine of \$25.00. (As amended Apr. 24, 1929, c. 314, §2.)

GENERAL PROVISIONS

§8561. Pledgee permitted to buy pledge where sold at public sale.

Sheriff is entitled to fees of \$4.50 for posting notices and making sale. Op. Atty. Gen., May 20, 1929.

CHAPTER 70

Marriage

§8562. Marriage a civil contract.

Marriage may be annulled where the defendant was prohibited by law from entering into it because he had been divorced from a former wife within six months, and induced the consent of plaintiff by a false representation of no divorce within the six-month period. 171M340, 214NW650.

Where the promises of the husband, under an antenuptial contract, to make payments of money to his wife have matured and the money has become due, the causes of action so perfected are not defeated by the wife's subsequent desertion of the husband. 172M91, 214NW791.

Alienation of affections and damages therefor. 177M270, 224NW839.

Essentials of common law marriage between single man and married woman by cohabitation and consent following death of husband of woman. 180M463, 231NW199.

Contract whereby plaintiff was employed at a stipulated compensation per month as a farm hand was not abrogated by marriage of plaintiff to his employer, but remained a binding obligation upon her, and he could recover for work performed after the marriage. Archer v. M., 236NW455. See Dun. Dig. 4258.

§8563. Persons capable of contracting.

A male person over 18 but under 21 years of age, and a female over 16 but under 18 years of age, cannot procure a marriage license without the consent of parents or guardians. Op. Atty. Gen., Feb. 13, 1930.

§8564. Marriages prohibited.

Marriage may be annulled where it took place within six months after divorce of defendant, through false representation. 171M340, 214NW 650.

Evidence held not to show common law marriage. 175M547, 221NW911.

Státé v. Yoder, 113M503, 130NW10, L. R. A. 1916C, 686, followed to the effect that a marriage within the time during which the parties may not remarry may be voidable but is not void under our laws. Ommang's Estate, 235. NW529. See Dun. Dig. 5788(68).

Marriage in Minnesota within one year after divorce in Wisconsin was valid, though it would be void under Wisconsin law. Ommang's Estate, 235NW529. See Dun. Dig. 1557, 5788(68).

Marriage to woman who had been divorced less than a year, and who was prohibited from remarrying by the laws of Wisconsin, held invalid under this section. 34F(2d)284.

§8569. Marriage licenses.—Application for a marriage license shall be made at least five days before a license shall be issued. The clerk shall examine upon oath the party applying for license relative to the legality of such contemplated marriage, and if, at the expiration of said five-day period, satisfied that there is no legal impediment thereto, he shall issue such license, with his official seal attached, and make a record thereof, provided, that in case of emergency, or extraordinary circumstances, the judge of the probate court or any judge of the district court of the county in which the application is made may authorize the license to be issued at any time before the expiration of said five days. If any person intending to marry shall be under age, and shall not have had a former husband or wife, such license shall not be issued unless the consent of the parents or guardians shall be personally given before the clerk, or certified under the hand of such parents or guardians, attested by two witnesses, one of whom shall appear

before such clerk and make oath that he saw said parents or guardians subscribe, or heard them acknowledge, the same. The clerk shall be entitled to a fee of two dollars for administering the oath, and issuing, recording, and filing all papers required. Any clerk who shall knowingly issue or sign a marriage license in any other manner than in this section provided shall forfeit and pay for the use of the parties aggrieved not to exceed one thousand dollars. (As amended Apr. 25, 1931, c. 401, §1.)

Marriage may be annulled where it took place within six months after divorce of defendant, through false representation. 171M340, 214NW 650.

A male person over 18 but under 21 years of age and a female over 16 but under 18 years of age cannot procure a marriage license without the consent of parents or guardians. Op. Atty. Gen., Feb. 13, 1930.

In computing the five-day period, the day on which the application is made is to be excluded and the day the license is issued is to be included. Op. Atty. Gen., April 29, 1931.

Fractions of days may not be considered in determining five days after which a marriage license may be issued. Op. Atty. Gen., May 9, 1931.

Consent of parents may be given any time during the five-day period. Op. Atty. Gen., June 2, 1931.

A party applying for a license must appear personally before the clerk. Op. Atty. Gen., June 2, 1931.

After the five-day period has expired, it is proper to mail the license to the applicant. Op. Atty. Gen., June 19, 1931.

§8579. Illegitimate children.

This statute does not refer to the children of one marrying while still having a spouse by a prior voidable marriage. 175M547, 221NW911.

The presumption of the legitimacy of a child conceived during wedlock, while strong, is not conclusive. State v. Soyka, 233NW300. See Dun. Dig. 3432.

CHAPTER 71

Divorce

See §§208-1 to 208-9.

§8580. What marriages void.

One who married during the existence of a voidable marriage was guilty of bigamy. 175M 498, 221NW867.

Evidence held not to show common law marriage. 175M547, 221NW911.

§8581. What voidable.

175M498, 221NW867; note under §8580.

Marriage may be annulled where it took place within six months after divorce of defendant, through false representation. 171M340, 214NW 650.

§8585. Grounds for divorce.

A husband sued for a limited divorce, held not estopped by the decision against him in a subsequent suit for absolute divorce from his wife. 178M1, 226NW412.

3. Cruel and inhuman treatment.

Conduct and associations of a spouse with one of the opposite sex, carried on against the

protest of the one wronged and of a character justifying the belief that the object is criminal may constitute cruel and inhuman treatment within the meaning of the divorce statute. 170M235, 212NW193.

Acts of cruel and inhuman treatment which result from a diseased mind are no cause for divorce. 171M253, 213NW906.

Husband granted divorce for cruelty of the wife. 172M250, 215NW181.

Finding of cruel and inhuman treatment sustained. 177M53, 224NW461.

Cruel treatment held not established. Taylor v. T., 225NW287.

Evidence held insufficient to show desertion, but to show cruel and inhuman treatment. 179 M266, 229NW128.

Finding that wife was guilty of cruel and inhuman treatment, though she used no physical force or violence held sustained by evidence. Eller v. E., 233NW823. See Dun. Dig. 2778.

5. Desertion.

Nonsupport. 172M250, 215NW181.

Complaint failed to establish desertion arising out of wife's qualified refusal to live with plaintiff while depending upon the benevolence of his father. Taylor v. T., 225NW287.