

1936 Supplement
To
Mason's Minnesota Statutes
1927

(1927 to 1936)
(Superseding Mason's 1931 and 1934 Supplements)

Containing the text of the acts of the 1929, 1931, 1933 and 1935 General Sessions, and the 1933-34 and 1935-36 Special Sessions of the Legislature, both new and amendatory, and notes showing repeals, together with annotations from the various courts, state and federal, and the opinions of the Attorney General, construing the constitution, statutes, charters and court rules of Minnesota together with digest of all common law decisions.



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such other manner as the court shall order and if such court shall deem further notice necessary it shall be given in such manner as may be specified in such order. Upon such hearing the court shall make such order as it deems appropriate, which order shall be final and conclusive as to all matters thereby determined, and shall be binding in rem upon the trust estate and upon the interests of all beneficiaries, vested or contingent, except that appeal to the Supreme Court may be taken from such order within 30 days from the entry thereof, by filing notice of appeal with the clerk of district court, who shall mail a copy of such notice to each adverse party who has appeared of record. (Act Apr. 15, 1933, c. 259, §3.)

While testamentary trustees are under direction of court, they are not officers of court. *McLaughlin v. M.*, 192M203, 255NW839. See Dun. Dig. 9927.

Where discretion is conferred upon testamentary trustee in respect of exercising of a power, exercise thereof is not subject to control by court, except to prevent abuse by trustee of his discretion. *Ordean's Will*, —M—, 261NW706. See Dun. Dig. 9927a.

8100-14. Guardian may be appointed.—If any person upon whom the court has ordered that personal service be made is a minor or otherwise incompetent to act in his own behalf and has no general guardian within the state, or if any party in interest is unascertained or not in being, or unknown to the trustee or outside the State of Minnesota, the court itself shall be deemed to represent such person or persons, but may, upon the application of the trustee or any

other person interested therein, appoint a guardian ad litem for any such minor or incompetent person. (Act Apr. 15, 1933, c. 259, §4.)

8100-15. Application.—This Act shall not apply to trusts in the nature of mortgages or to trusts commonly known as voting trusts. The word "person" as used herein shall refer to an artificial as well as to a natural person. (Act Apr. 15, 1933, c. 259, §5.)

In action by holder of trust certificates against trustee for conversion because it foreclosed and bid in trust property without plaintiff's knowledge or consent thereby releasing guarantors, plaintiff is not entitled to recover where guarantors were insolvent at time their obligation matured. *Sneve v. F.*, —M—, 261NW700. See Dun. Dig. 6145 (10).

8100-16. Not to limit jurisdiction of court.—Nothing in this Act contained shall be deemed to limit or abridge the power or jurisdiction of the district court over trusts and trustees. (Act Apr. 15, 1933, c. 259, §6.)

8101. Effect of misconduct of trustees.

Trustee held to have power to exchange property for other properties and cash. *Warner Hardware Co. v. S.*, 186M229, 242NW718. See Dun. Dig. 9936.

8103. Death of trustee—Trust, how executed.

While district court may become temporary repository of title in case of a vacancy arising in a testamentary trusteeship, there can arise no liability of the court or its judges under covenants of a lease which happened to be part of the trust property. *McLaughlin v. M.*, 192M203, 255NW839. See Dun. Dig. 9928.

CHAPTER 61

Powers

8107. Powers abolished, except, etc.

An agent owes the utmost fidelity to his principal. *Nat'l. Pole & Treating Co. v. G.*, 182M21, 233NW810. See Dun. Dig. 152.

Actual authority of sales agent to receive payment for merchandise may be implied from circumstances. *Nat'l. Radiator Corp. v. S.*, 182M342, 234NW648. See Dun. Dig. 161(43).

In action by a salesman to recover a commission, evidence held sufficient to sustain verdict for plaintiff. *Sigvertsen v. M.*, 182M387, 234NW688. See Dun. Dig. 5812.

8115. Particular estate with power of disposition.

Will held to give an absolute beneficial power of alienation, and life estate was changed into a fee ab-

solute as respected the right of a mortgagee or purchaser, but subject to the future estate of children. 172M48, 215NW196.

8116. Power of disposition creates fee—when.

Life estate with absolute power of disposal. 18Minn Law Rev488.

8119. What powers of disposition absolute.

172M48, 215NW196; note under §8115.

8142. When power is irrevocable.

Power to revoke a trust without express provision therefor. 17MinnLawRev231.

CHAPTER 61A

Official Trusts

8168. Corporate authorities or judge to convey lands.

Note. The act herein referred to should probably be Act May 23, 1844, instead of Act May 23, 1854.

CHAPTER 62

Landlords and Tenants

8186. Distress for rent.

1. The relation in general.

Under ordinary contract between landowner and cropper they are co-owners of the crop, and cropper may mortgage his share before division, and a provision authorizing landowner to retain possession of the cropper's share as security for his indebtedness is in legal effect a mortgage on the crop. 171M461, 214NW288.

Except as security for rent or the purchase price of the land, the landowner cannot acquire a valid lien on crops to be grown later than the season beginning on May 1st next following the date of the contract. 171M461, 214NW288.

If without the consent of the cropper, the landowner retains more than his share of the crops, he must account therefor and cannot apply the value thereof on the unsecured indebtedness of the cropper. 171M461, 214NW288.

Covenant of lessee "to pay all unpaid taxes and assessments that are now levied or assessed upon said real

estate during the term" held to evidence an intention of parties to impose tax obligation upon lessee. 173M247, 217NW135.

Conversion of grain dependent on construction of lease. *Randolph v. T.*, 174M283, 219NW91.

Lessor informing guarantor on lease that tenant was paying the rent, held to estop him from claiming that tenant was in arrears at such or a subsequent time. 176M227, 222NW929.

Return of lease with a change in it was not an acceptance but a counter offer, but acceptance of the counter offer may be implied from circumstances. *M. Samuels & Co. v. Z.*, 182M345, 234NW468. See Dun. Dig. 1740(24).

City held not to have become bound contractually under a lease to it and was not liable for rent. *Noyes v. C.*, 183M496, 237NW189.

In the absence of a contrary provision in a written lease for an apartment in a modern multiple apartment building, the landlord impliedly covenants that the premises will be habitable. *Delamater v. F.*, 184M428, 239NW148. See Dun. Dig. 5393.