

MASON'S MINNESOTA STATUTES

1927

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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THOSE WHICH HAVE BEEN REPEALED OR SUPERSEDED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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be in full of all clerk's fees and charges in such proceeding on his behalf. Any defendant on entering his appearance shall pay a like sum, which shall be in full of all clerk's fees on his behalf. When any number of defendants enter their appearance jointly but one fee shall be paid. Every publication in a newspaper required by this law shall be paid for by the party on whose application the publication is made. The party at whose request any notice is issued shall pay for the service of the same, except when sent by mail by the clerk or by the registrar. (3449) [6948]

8328. Registrar's fees—The fees to be paid to the registrar shall be as follows:

1. At or before the time of filing the certified copy of the application for registration the applicant shall pay, if the land have an assessed value of one thousand dollars, or less, the sum of three dollars; if assessed for more, the further sum of one dollar on each additional one thousand dollars of assessed valuation, or major fraction thereof.

2. For registering each original certificate of title, and issuing a duplicate thereof, two dollars.

3. For registering each transfer, including the filing of all instruments connected therewith, and the issuance and registration of the new certificate of title, three dollars.

4. For the entry of each memorial on the register, or the cancellation thereof, including the filing of all instruments and papers connected therewith and endorsements upon duplicate certificates, one dollar; provided, that when the entry of the same memorial, or cancellation thereof, is required to be made on more than two certificates held by the same owner, the fee for such entry, on each certificate in excess of two, shall be twenty-five cents.

5. For issuing each additional mortgagee's or lessee's duplicate, one dollar.

6. For issuing each residue certificate, two dollars.

7. For filing copy of will, with letters testamentary, or copy of letters of administration, and entering memorial thereof, two dollars.

8. For issuing separate certificates and duplicates thereof, in exchange for one certificate for two or more distinct parcels, for each exchange certificate, one dollar.

9. For each certificate showing condition of the register, one dollar.

10. For any certified copy of any instrument or writing on file in his office, the same fees allowed by law to registers of deeds for like services.

11. For any other service under this chapter, such fee as the court shall determine. (R. L. § 3450, amended '11 c. 349 § 1) [6949]

122-203, 142+129.

8329. Disposition of fees—In all counties in which the register of deeds receives fees in lieu of a salary, all fees mentioned in section 80 [8328] shall belong to him, except one-half of those provided for in subdivision A, which shall be paid to the county treasurer. In all other counties all of such fees shall be paid to the county treasurer for the use of the county; provided, that in all counties containing a population of less than seventy-five thousand inhabitants, the register of deeds shall in no case retain more than \$3.00 of the moneys received under the provisions of subdivision A, and that the balance collected by him shall in all cases be paid to the county treasurer for the use of the county. ('05 c. 305 § 81, amended '09 c. 183 § 4) [6950]

Explanatory note—The reference in this section to section 80 [8328] is to '05. c. 305, § 80, which was printed as R. L. '05, § 3450, which now is section 8328 of this compilation.

CHAPTER 65A

REGISTRATION OF CERTAIN TRADE-NAMES

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8330. Record of name, mark, etc.—Duty of secretary of state—Certificate—Any person engaged in manufacturing, bottling or selling soda waters, mineral or aerated waters, porter, ale, cider, ginger ale, small beer, lager beer, Weiss beer, beer, white beer, malt extract, other beverages, milk, cream, ice cream or butter in any kind of receptacle having the name of such person or other mark or device printed, stamped, engraved, etched, blown, impressed, riveted or otherwise produced or permanently fixed upon the same, may file in the office of the secretary of state for record a description of the name, mark or device so used and cause such description to be printed once in each week for three successive weeks in a newspaper published in the county in which the principal place of business of such person is located, or if the principal place of business of such person is located in another

state, then in the county wherein the principal office or depot within the state of Minnesota is located. It shall be the duty of the secretary of state to issue to the person so filing for record a description of such name, mark, or device in his office a duly attested certificate of the record of the same for which he shall receive a fee of one dollar. Such certificate in all prosecutions under this act shall be prima facie evidence of the adoption of such name, mark or device, and of the right of the person named therein to adopt and use the same. ('05 c. 340 § 1) [6951]

By section 7 1895 cc. 143, 144, and 1899 c. 306 are repealed.

8331. Use of receptacles without consent prohibited—Obliterating name, etc.—Penalty—It shall be unlawful for any person other than the one named in the certificate issued by the secretary of state as provided in section one [8330] of this act, without the written consent of the person named in such certificate to fill any receptacle bearing a name, mark or device recorded as provided in section one [8330] of this act with soda water, mineral or aerated waters, porter, ale, cider, ginger ale, small beer, lager beer, Weiss beer, beer, white beer, malt extract, other beverages,

milk, cream, ice cream or butter, or to deface, erase, obliterate, cover up or otherwise remove or conceal any such name, mark or device on any such receptacle, or to buy, sell, give, take, dispose of in any way, or traffic in any receptacle bearing any such name, mark or device. Any person offending against any provision of this section shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall 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 or more than one hundred dollars, and each such receptacle so unlawfully dealt with as herein set out shall be deemed and held to be a separate offense. ('05 c. 340 § 2) [6952]

8332. Receptacles to be delivered on demand—Penalty—Any person having in possession or under control any receptacle bearing any name, mark or device recorded as provided in section one [8330] of this act, and not holding a written transfer or bill of sale therefor from the person named in the certificate issued by the secretary of state as provided in section one [8330] of this act or other authority in writing from such person, upon demand shall deliver such receptacle to the person named in such certificate 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) [6953]

8333. 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 anyone 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) [6954]

8334. 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 [8330] 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) [6955]

8335. 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) [6956]

CHAPTER 66

HOMESTEAD EXEMPTION

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8336. Dwelling place exempt—Exceptions—The house owned and occupied by a debtor as his dwelling place, together with the land upon which it is situated to the amount hereinafter limited and defined, shall constitute the homestead of such debtor and his family, and shall be exempt from seizure or sale under legal process on account of any debt not lawfully charged thereon in writing, except such as are incurred for work or materials furnished in the construction, repair, or improvement of such homestead, or for services performed by laborers or servants. (3452) [6957]

1. Nature—A homestead is the place of residence or dwelling of its owner. It includes the house in which the owner lives and the customary appurtenances of a

house (10-154, 124; 15-116, 87; 21-101; 27-156, C; 318; 27-406, 7+824; 29-18, 11+119; 51-360, 53+805). It is not the interest or title of the claimant (27-406, 7+824).

The general rule is that homestead laws are to be liberally construed so as to advance the beneficial object and carry out the manifest purpose of the Legislature. 202+494.

Under our statute the homestead exemption is not alone for the husband and his protection but for the benefit of the wife and children as well. It is not only a privilege but an absolute right. 162-230, 202+494.

The homestead law is liberally construed for the benefit of the debtor. 165-295, 206+461.

Evidence showing that husband and wife had lived on land, although frequently absent, and had retained home there, leaving household goods and furniture, held to sustain order setting apart homestead to surviving widow. 166-492, 206+929.

Where a husband embezzles funds and appropriates to payment for labor and materials for the construction of a dwelling upon land owned by himself and his wife, as tenants in common, and claimed by them as their homestead, a constructive trust arises in favor of the injured party as to the dwelling. 210+889.

The fact that the husband and wife were owners of the land, as tenants in common, does not subject the wife's interest therein to levy on account of such trust. 210+889.

2. Object and policy of statute—2-90, 72; 7-513, 419; 21-101; 27-156, 6+618; 89-247, 94+677.

3. Actual occupancy as home essential—5-333, 264; 7-513, 419; 8-309, 272; 10-154, 124; 15-116, 87; 21-299; 23-435; 25-183; 28-13, 8+830; 47-13, 49+390; 71-108, 73+639.