

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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CHAPTER 65A

Registration of Certain Trade-Names

§8335-1. Definitions.—The word person or persons as used in this act shall mean persons, firms, corporations, co-partnerships, associations or agents of any of them. (Act Apr. 25, 1931, c. 366, §1.)

§8335-2. Brands to be registered.—Whoever operates a creamery, cheese factory, ice cream factory, or cream buying station; or if upon the farm or elsewhere produces milk or cream or any dairy product to be sold for human consumption or to be manufactured into any product or kind of human food, or any dealer in dairy products having in his possession any cans, ice cream containers or other receptacles shall at all times keep all buildings on the premises surrounding or adjacent thereto and all cans, pails and other receptacles, cream separators and other mechanical contrivances used in handling such dairy products or used in the production of such on the farm, in a clean and sanitary condition, and shall not consign for transportation by common carrier empty cans or ice cream containers in an unsanitary condition. That all persons, companies and corporations engaged in the purchase of milk or cream, or in the manufacture of ice cream shall adopt a mark or marks of ownership to be stamped or marked on any can, cask, keg, barrel or other receptacles, used in the handling and transportation of any said products, and shall file in the office of the agriculture, dairy and food commissioner, without charge, upon a suitable blank to be furnished by the commissioner of agriculture, dairy and food, a description of the name or mark so used by them or either of them and the use to be made of any such can, cask, barrel or other receptacle. The brand or mark so selected and adopted as herein provided may consist of a name, design, mark or marks, or some particular color of paint or enamel used upon the can, cask, keg, barrel or other receptacle, or any part thereof. It shall be unlawful for any person, company or corporation to adopt or use any brand or mark, which has already been designated, appropriated or obtained under the provisions of this act. It shall be unlawful for any persons other than the rightful owner thereof, or his lawful agent, to use any can, cask, keg, barrel or other receptacle marked or branded as herein provided. Any person other than the owner, or his lawful agent, having in his possession any such can, cask, keg, barrel or other receptacle marked or branded as herein provided shall be deemed guilty of having violated the provisions of

this law. Provided: Nothing in the section shall apply to transportation companies or their agents during the time that such can, cask, keg, barrel or other receptacle marked or branded as herein provided is being transported to and from the owner or his lawful agent. It shall be unlawful for any other person than the rightful owner, or his lawful agent, to deface or remove any such brand, mark or stamp put upon any such can, cask, keg, barrel or other receptacle as herein provided. (Act Apr. 25, 1931, c. 366, §2.)

The title of the act: "An act providing for the registration of brands on containers for dairy products; providing for the registration thereof; and providing penalties for violation thereof," may not be sufficient to cover the opening sentence of this section with respect to sanitation.

§8335-3. Violations—penalties.—Any person or persons who shall violate any provision of this act shall be deemed guilty of a misdemeanor, and upon conviction thereof before a court having jurisdiction in such cases, shall be fined for each and every offense in the sum of not less than fifteen dollars nor more than one hundred dollars. (Act Apr. 25, 1931, c. 366, §3.)

§8335-4. Commissioner of agriculture to enforce act.—The agriculture, dairy and food commissioner of the state is charged with the proper enforcement of all of the provisions of this act. (Act Apr. 25, 1931, c. 366, §4.)

§8335-5. Effective June 1, 1931.—This act shall take effect and be in force from and after June 1, 1931. (Act Apr. 25, 1931, c. 366, §5.)

DECISIONS RELATING TO TRADE-MARKS
AND TRADE-NAMES IN GENERAL**In general.**

Evidence held to sustain holding that name "De Guile" was a trade-name. Jarvaise Academy of Beauty Culture v. S., 237NW183. See Dun. Dig. 9670.

A trade-name is not strictly a trade-mark, but is generally governed as to its use and transfer by the same rules as a trade-mark. Jarvaise Academy of Beauty Culture v. S., 237NW183. See Dun. Dig. 9670.

Unfair competition.

Evidence held not to show any unfair competition in use of trade-name. Jarvaise Academy of Beauty Culture v. S., 237NW183. See Dun. Dig. 9670.

Sale and transfer.

The sale or transfer of the property and good will of an established and going business includes trade-names and trade-marks used in that business, unless the contrary is shown. Jarvaise Academy of Beauty Culture v. S., 237NW183. See Dun. Dig. 9670.

CHAPTER 66

Homestead Exemption

§8336. Dwelling place exempt—Exceptions.**1. Nature.**

Judgment for an amount loaned for the purchase of a homestead upon husband's fraudulent promise to give a mortgage on the homestead

after acquired, cannot be declared a lien on the homestead. 171M431, 214NW467.

There was a violation of a promise of future action rather than of an existing duty and so is not one for the imposition of a lien to enforce a trust ex maleficio. 171M431, 214NW467.

Use by brothers, joint tenants, of a farm for partnership farming did not destroy their homestead rights therein. 172M200, 214NW793.

The Fraudulent Conveyance Act (Chapter 415, Laws 1921) did not modify or repeal any part of the homestead law. 173M576, 218NW108.

8. Debts due laborers or servants.

An award under the Workmen's Compensation Act is not a "debt incurred to any laborer or servant for labor or service performed," within the meaning of Const. art. 1, §12, and is not a lien upon the employer's homestead. 175M161, 220NW421.

Constitutional provision does not create liability against the homestead of one who is not the master or employer of the laborer or servant although he has by some collateral contract with the employer made himself liable for the payment of the debt. 175M389, 221NW534.

§8340. No alienation without consent of spouse—Exceptions.

Use by joint tenants of a farm for partnership farming did not destroy homestead rights therein, where the wife of one of them refused to join in a conveyance of the farm to the partnership. 172M200, 214NW793.

On foreclosure mortgage covering a homestead, and land conveyed to a purchaser by the mortgagor's trustee in bankruptcy subject to existing liens, the judgment correctly directed the land sold by the trustee to be first subjected, and the homestead last. 172M529, 215NW850.

Where the wife does not sign a contract to convey the homestead the contract is a nullity, but a broker may recover a commission from the husband, there being a presumption that he can perform his contracts. 179M42, 228NW339.

§8342. Sale or removal permitted.

1. Sale and removal.

Finding against abandonment of homestead held sustained by the evidence. 172M200, 214NW793.

2. Notice of claim—Abandonment.

No "abandonment" of wife's homestead results from fact that husband makes a lease thereof to third party, not joined in or authorized by wife. 173M576, 218NW108.

There is no "abandonment" of a homestead until the owner removes therefrom and ceases to occupy the same as his home, intention to remove therefrom at some future time not being sufficient. 173M576, 218NW108.

CHAPTER 67

Chattel Mortgages and Conditional Sales

CHATTEL MORTGAGES

§8345. Mortgages, when void.

½. In general.

Where a tenant in possession installed a hot air furnace in the basement of a dwelling house, under a conditional sales contract, and the owner of the realty knew of and consented to such installation, although he did not know that there was a conditional sales contract, and such furnace and attachments can be removed without material injury to the building, the furnace and attachments did not become a part of the realty as between the seller and the owner, and may be removed by the seller on default in payments. 173M121, 216NW795.

Evidence held not to require finding that plaintiff authorized or acquiesced or ratified giving of mortgage. 173M166, 216NW801.

In replevin for lunch counter outfit under chattel mortgage given for balance of purchase price, defense of fraudulent misrepresentation held sustained by evidence. 173M443, 217NW505.

G. S. 1923, §8345, does not apply to general creditors, but to such as are armed with process, or to a receiver representing creditor and vested with the right to attack. 175M47, 220NW400.

Findings in civil suit, held inadmissible in criminal prosecution. 180M378, 230NW818.

A conditional sale of stock of merchandise under which buyer is permitted to retain possession and to sell from and replenish the stock, is valid. 32F(2d)285.

A chattel mortgage covering a stock of merchandise under which mortgagor is permitted to retain possession and to sell from and replenish the stock is fraudulent as a matter of law and void as to creditors. 32F(2d)285.

Judgment of state court as to validity of transfer, held conclusive in bankruptcy court. 39F(2d)969.

1. What must be filed.

This section is applicable, though the chattel mortgage takes the form of a bill of sale. 175M47, 220NW400.

3. Effect of filing.

A duly filed chattel mortgage constitutes constructive notice though the property is thereafter removed to another state. 172M458, 215NW844.

Filing of chattel mortgage given by lessor held not notice to bona fide purchaser of note of

lessee containing mortgage clause on crops. 180M81, 230NW266.

4. Priority among mortgages.

Purchase money mortgage held superior to prior chattel mortgage. 177M441, 225NW389.

8. Burden of proving good faith.

Chattel mortgagee held to have burden of proving that she took her mortgage in good faith and not for the purpose of injuring creditors, as against an attachment levied on such property. 172M355, 215NW517.

This section is not repealed by implication by the uniform fraudulent conveyance act (§8475 et seq.) and is to be held identical to a similar statute existing and construed prior to the revision of 1905. 172M355, 215NW517.

The attaching creditor held to have sufficiently proved the validity of attachment and the cause of action for recovery of money stated therein, and hence was a creditor within the meaning of this section. 172M355, 216NW517.

No reversible error could be predicated upon the submission to the jury of the question whether the attachment creditor was a creditor in fact, for the testimony was undisputed that it was such to the extent of at least \$4,000. 172M355, 215NW517.

The finding of the jury that plaintiff did not sustain the burden of proof that the mortgage was taken in good faith and not for the purpose of hindering attaching creditor, has ample support. 172M355, 215NW517.

Evidence held properly admitted that at the same time plaintiff took this mortgage she also took another form of mortgage covering all the balance of its property within this state. 172M355, 215NW517.

There was no error in admitting evidence of prior mortgages to other parties for the purpose of proving the falsity of the representations of plaintiff's husband, the president of the mortgagor. 172M355, 215NW517.

A sale by a vendor of goods or chattels when there is not an immediate change of possession is presumed to be fraudulent and void as against creditor of the vendor. 175M157, 220NW560.

10. What is good faith.

Evidence sustained finding that chattel mortgage given by father to son was not executed in good faith. 177M84, 224NW457.

13. Crops.

A chattel mortgage on a crop not yet planted or sown attaches only to such interest as the