

89022

GENERAL STATUTES OF MINNESOTA

SUPPLEMENT 1917

CONTAINING THE AMENDMENTS TO THE GENERAL STATUTES
AND OTHER LAWS OF A GENERAL AND PERMANENT
NATURE, ENACTED BY THE LEGISLATURE
IN 1915, 1916, AND 1917

WITH NOTES OF ALL APPLICABLE DECISIONS

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[CHAPTER 69A]

[PLEDGES]

[7087—]1. **Pledgee permitted to buy at public sale**—Whenever a pledgee of personal property has a remedy to enforce his lien upon such property by sale thereof in case of default, by virtue of the contract creating such lien, any such pledgee, his legal representatives or assigns, may, fairly and in good faith, purchase such property or any part thereof, at any sale so made; provided, that such sale, if such pledgee shall wish to bid thereat, shall be at public auction and upon like notice as is required in case of execution sales of personal property in this state, and shall be conducted by the sheriff or his deputy of the county, or by a constable of the town in which such pledged property or some part thereof is situated at the time of giving such notice. ('17 c. 305 § 1)

CHAPTER 70

MARRIAGE

7090. **Marriages prohibited**—

Evidence held to warrant directing a verdict for plaintiff in an action for breach of promise to marry, the defense in which was that defendant was subject to epileptic fits and was incompetent to marry under this section (123-498, 144+213, 49 L. R. A. [N. S.] 757, Ann. Cas. 1915A, 295). Breach of Marriage Promise, Ⓒ34.

CHAPTER 71

DIVORCE

7106. **What marriages void**—

162+454.

7107. **What voidable**—

Essentials to common-law marriage stated (122-407, 142+593). Marriage, Ⓒ18, 40(4), 50(5).

7109. **What not annulled**—

Essentials of common-law marriage stated. (122-407, 142+593). Marriage, Ⓒ18, 40(4), 50(5).

7111. **Grounds for divorce**—

Subd. 3. Cruel and inhuman treatment—Evidence held to support finding of cruel and inhuman treatment (127-96, 143+1074). Divorce, Ⓒ130.

Evidence held sufficient to establish cruel and inhuman treatment (126-65, 147+825). Divorce, Ⓒ27(8), 130.

The evidence held not to justify the court on appeal in holding that a finding of cruelty was not supported (135-179, 160+494). Divorce, Ⓒ130, 150(2).

The jurisdiction of the Minnesota courts to grant a divorce for cruel and inhuman treatment is not affected by the fact that the acts and conduct alleged to constitute the cruel and inhuman treatment occurred outside the state, or by the fact that defendant has never resided in the state, or that the parties were not living together as husband and wife at the time that the acts occurred (132-340, 156+664). Divorce, Ⓒ59, 61.

Evidence held to support a finding that a wife was guilty of cruel and inhuman treatment of her husband (132-340, 156+664). Divorce, Ⓒ130.

Subd. 4. Sentence to imprisonment—This section applies to sentences passed before its enactment (135-179, 160+494). Venue, Ⓒ52(1).

Subd. 4 of this section does not limit the cause for divorce to future sentences of imprisonment, but a conviction and imprisonment initiated prior to the enactment of the statute, but

after marriage, is ground for divorce (135-259, 160+687, L. R. A. 1917C, 159). Divorce, ⇨13.

Finding as to existence and continuance of imprisonment in a state prison held sufficient (135-259, 160+687). Divorce, ⇨150(2).

Subd. 5. Desertion—Evidence held to support a finding of willful desertion of her husband by the wife (130-342, 153+745). Divorce, ⇨37(15).

Evidence held to establish willful desertion (132-321, 156+348). Divorce, ⇨133.

Where the wife brought an action for limited divorce, which remained undetermined for two years, defendant was entitled to amend his answer and demand a divorce on the ground of willful desertion by the wife, and in computing the period of such desertion time elapsing during the pendency of the action may be considered (130-342, 153+745). Divorce, ⇨104.

7115. Requisites of complaint—

Necessity of demand for alimony (see 130-472, 153+864). Divorce, ⇨203. See, also, note under § 7128, post.

7121. Custody of children, etc.—

Held that plaintiff, the mother, was, and that defendant was not, a fit person to have the custody of a seven year old son (132-321, 156+348). Divorce, ⇨298(4).

Discretion of the trial court in refusing to disturb the custody of minor children placed by plaintiff with her mother while plaintiff was receiving treatment at a hospital for a nervous breakdown alleged to have resulted from defendant's cruel and inhuman treatment held not abused (135-307, 160+778). Divorce, ⇨298(1).

Decree awarding alimony does not relieve the husband of his duty to support the children of the marriage, unless the decree makes express provision for such support (161+525). Divorce, ⇨306, 324.

Award of custody of children to wife, suing for divorce, where she fails to establish grounds for divorce or for separation (see 161+525). Divorce, ⇨294. See, also, note under § 7140.

7122. Same—On judgment—

161+525; notes under §§ 7121, 7140.

As to the custody of a child five years old, whose parents are divorced, the welfare of the child is the primary consideration, and requires that the custody be given to the mother, unless she is an unfit person to be charged with its bringing up (132-467, 156+1). Habeas Corpus, ⇨99(3).

7123. Order may be revised—

The test of the validity of an order modifying a decree as to custody, so as to permit the father to visit the children at reasonable times, is whether there was an abuse of discretion. The welfare of the child being the prime consideration, where it appeared that a child was sensitive and of a nervous disposition, so that undue excitement was detrimental to his health, the denial of a father's application to modify the decree as to custody, so as to permit him to visit the child, was not an abuse of discretion (135-473, 159+1068). Divorce, ⇨303(2, 3).

7128. Property of husband—Permanent alimony—

An award of alimony held reasonable and fair, but subject to modification to secure life support of wife (127-96, 148+1074). Divorce, ⇨240(1).

In a suit for divorce, where personal service is made on defendant, the court has power to allow alimony, though the complaint contains no specific demand therefor and the defendant does not answer (130-472, 153+864). Divorce, ⇨203.

Under this section and § 7129, the court has power to alter and modify its decree for alimony, so as to make it a specific lien on land acquired by the husband after the alimony decree was rendered (135-397, 161+148, L. R. A. 1917C, 1140). Divorce, ⇨245(1).

Provision for alimony does not relieve the husband of his duty to support the children, unless the decree makes express provision for such support (161+525). Divorce, ⇨306.

7129. Order for alimony, etc., revised—

129-538, 152+1101; 135-397, 161+148, L. R. A. 1917C, 1140; note under § 7128, ante.

7133. Effect of divorce—Name of wife—

A judgment for divorce does not abrogate a separation agreement by which the husband agrees to pay a specified monthly sum for the maintenance and support of the wife "for and during the term of her natural life, or while this separation continues," the judgment not making other provision for the support of the wife (161+402). Husband and Wife, ⇨280.

LIMITED DIVORCES

7134. Separation—

Construction of this act as affected by construction placed upon it by the court of the state from which the statute was adopted (see 161+525). Statutes, ⇨226.

7137. Defenses—

Award of custody of children to wife suing for divorce, though she fails to establish ground for divorce or for separation (see 161+525). Divorce, ⇨294. See, also, note under § 7140.

7139. As to alimony and wife's property—

Award of custody of children to wife in her suit for divorce in which she fails to establish grounds for divorce or separation (see 161+525). Divorce, Ⓒ294. See, also, note under § 7140.

7140. When separation not granted—

In an action by a wife for a divorce in which she fails to establish facts authorizing a divorce or decree of separation, but in which it appears that the parties are living apart, the court may award the custody of the children to her and require the husband to contribute toward their support (161+525). Divorce, Ⓒ294.

CHAPTER 72
MARRIED WOMEN**7143. Property rights—**

Under this section a married woman may carry on business on her own account, and the avails of her contracts are not liable for her husband's debts (135-105, 160+249). Husband and Wife, Ⓒ149(1).

In suit by wife for conversion, it is no defense that the property was delivered to the husband on his rebonding it in *Teplevin* (127-177, 149+2). *Trover and Conversion*, Ⓒ22.

Chattel mortgage executed by husband on his wife's separate property is not binding on her, where she did not authorize its execution, either actually or by way of estoppel (127-177, 149+2). Husband and Wife, Ⓒ137(7).

Where a deed to the wife was adjudged to be a mortgage, money deposited in court to redeem therefrom could not be subjected to the payment of a judgment against the husband (128-126, 150+396). Mortgages, Ⓒ608½.

7146. Liability of husband and wife—

Cited (129-190, 151+976, L. R. A. 1915D, 1111, Ann. Cas. 1916E, 897).

This section does not change the rule that as between husband and wife the duty to provide necessaries rests upon the husband (162+1060). Husband and Wife, Ⓒ19(1).

Where the wife pays for such necessaries out of her own funds as a contribution toward the family expenses and without expecting reimbursement therefor, she is not entitled to recover the amount so paid from the estate of her husband; but where she makes such payments without an understanding that they are a contribution by her toward such expenses for which no reimbursement is expected, she may recover the amount thereof from his estate (162+1060). Husband and Wife, Ⓒ40.

7147. Contracts between husband and wife—

By virtue of this section a husband could not make a valid contract for the sale of his wife's land, either as her agent or otherwise, and such a contract is not binding on her unless she subsequently adopts and confirms it (131-299, 154+1086). Husband and Wife, Ⓒ138(3).

CHAPTER 73
ADOPTION AND CHANGE OF NAME

7151. Adoption—Petition and consent—Any resident of the state may petition the district court of the county in which he resides for leave to adopt any child not his own. If the petitioner be married the spouse shall join in the petition. All petitions for the adoption of a child who is a ward or pupil of the state public school shall be made jointly by the person desiring to adopt such child and the superintendent of the state public school. The state board of control may determine by resolution that the joinder of the superintendent in the petition shall be its consent to the adoption of the ward or pupil, as prayed for in the petition. A person of full age may be adopted. (Amended '17 c. 222 § 1)

1917 c. 222 § 1 amends G. S. 1913 c. 73, so as to read as set forth in sections therein and herein numbered 7151-7161. Section 2 repeals G. S. 1913 §§ 7152, 7157, 7158, and all acts or parts of acts inconsistent herewith. By § 3 the act takes effect January 1, 1918.