

1934 Supplement
To
Mason's Minnesota Statutes
1927

(1927 to 1934)
(Superseding Mason's 1931 Supplement)

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



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CHAPTER 88

Actions against Boats and Vessels

9774. For what liable.

Defendant having executed a charter party in which it purported to contract as principal, is liable for breach of the contract, whether in fact contracting as principal or as agent for an undisclosed principal. 171M507, 214NW510.

Evidence held to sustain finding that contract was breached by the failure of the vessel to report for loading within the time required by the contract; also that the delay was caused by the voluntary act of the owner; also that plaintiff had not waived its claim for damages. 171M507, 214NW510.

CHAPTER 89

Assignments for Benefit of Creditors

9782. Requisites.**1. Nature of proceeding.**

Transfer of property by managing officer or bank to certain directors to secure payment of his debts to the bank, held a mortgage and not an assignment for benefit of creditors, though it rendered him insolvent. 172M149, 214NW787.

3. To what applicable.

Not applicable to state banks in liquidation. 181M1, 231NW407.

11. Releases.

An assignment in favor of only those creditors who

will file releases is void. *Kobler v. H.*, 248NW698. See Dun. Dig. 614.

9789. Proof of claims—Order of payment.

Money received by bankrupt representing proceeds of hunting and fishing license fees, held preferred claim in favor of the state in bankruptcy proceeding. 47F(2d) 1073. See Dun. Dig. 612(93).

Subd. 1.

State is a preferred creditor entitled to all assets if not sufficient to pay claim in full. *Op. Atty. Gen.*, Aug. 1, 1933.

CHAPTER 90

Insolvency

The persons and property of farmers are excluded from the operation of the state insolvency law so long as the national act is in force. *Adrian State Bk. of Adrian v. K.*, 182M57, 233NW588. See Dun. Dig. 4542(96).

DECISIONS RELATING TO BANKRUPTCY**1. Discharge.**

Failure of postmaster to pay over to the government funds creates a debt which is not discharged in bankruptcy. *National Surety Co. v. W.*, 185M321, 240NW888. See Dun. Dig. 750.

Discharge in bankruptcy discharges personal liability of debtor on note secured by real estate mortgage, duly

scheduled by him as liability. *Fiman v. H.*, 185M582, 242NW292. See Dun. Dig. 749.

Bankrupt did not lose or waive his right to have deficiency judgment vacated, and foreclosure judgment set aside so far as it imposed personal liability upon him, by failing to apply to court to have foreclosure judgment reopened so as to set up his discharge as bar. *Fiman v. H.*, 185M582, 242NW292. See Dun. Dig. 5121.

Judgment in foreclosure of mortgage is discharged as to any personal liability of mortgagor by his subsequent discharge in bankruptcy. *Fiman v. H.*, 185M582, 242NW292.

CHAPTER 91

Contempts

9792. Direct contempts defined.

Power of court to purge of contempt. 172M102, 214NW776.

A judgment debtor is not guilty of contempt for failing to convey to receiver pending appeal from order appointing him, but he is guilty for failing to convey after affirmance. 172M102, 214NW776.

9793. Constructive contempts defined.

Act of juror in willfully concealing her interest in a prosecution for which she was called as a juror, even if not constituting perjury, was a contempt of court. *U. S. v. Clark*, (DC-Minn), 1FSupp747. *Aff'd* 61F(2d)695. *Certiorari granted.*

A witness before a grand jury may not refuse to answer questions because they have not been ruled upon by the court or because they seem to relate only to an offense, the prosecution of which is barred by a statute of limitation. 177M200, 224NW838.

The doctrine of double jeopardy has no application in proceedings to punish for contempt, and each succeeding refusal to answer the same questions will ordinarily be a new offense. 177M200, 224NW838.

A defendant who refuses to testify or answer proper questions in a hearing before a referee in proceedings supplementary to execution, is guilty of constructive contempt, and repeated evasions and untrue answers amount to a refusal to answer. 178M158, 226NW188.

A judgment directed a corporation to file dismissals of cross-actions in a foreign state. It did not authorize a requirement that they be dismissed with prejudice. 181M559, 233NW586. See Dun. Dig. 1705.

Order in contempt against one who had obtained property in proceeding supplementary to execution and had failed to return property as required by order of court after reversal on appeal, held improvidently made. *Proper v. P.*, 246NW481. See Dun. Dig. 1702, 3548.

9794. Power to punish—Limitation.

Writ issued to lower court only when that court is exceeding its jurisdiction. 173M623, 217NW494.

Defendant in divorce in contempt of court in failing to obey order for payment of temporary alimony, is not for that reason deprived of the right of defense. 173M165, 216NW940.

Punishment for constructive contempt is limited to a fine of \$50.00, unless a right or remedy of a party was defeated or prejudiced, but this does not prevent the court from enforcing payment of the fine by imprisonment. 178M158, 226NW188.

9795. Summarily punished, when.

When object of a proceeding in contempt is to impose punishment merely, order adjudging contempt is reviewable on certiorari, but when object is to enforce doing of something in aid of a civil proceeding, order of contempt is reviewable on appeal. *Proper v. P.*, 246NW481. See Dun. Dig. 1395, 1702 to 1708a.

9796. Arrest—Order to show cause, etc.

Information for contempt by a juror in willfully concealing her interest in a criminal prosecution, as a result of which she was accepted as a juror, held sufficient. *U. S. v. Clark*, (DC-Minn), 1FSupp747. *Aff'd* 61F(2d)695. *Certiorari granted.*

9802. Penalties for contempt of court.—Upon the evidence so taken, the court or officer shall determine the guilt or innocence of the person proceeded against, and, if he is adjudged guilty of the contempt charged, he shall be punished by a fine of not more than \$250.00, or by imprisonment in the county jail, workhouse or work farm for not more than six months, or by both. But in case of his inability to pay the fine or endure