

GENERAL STATUTES

OF THE

STATE OF MINNESOTA,

IN FORCE JANUARY, 1891.

VOL. 2.

CONTAINING ALL THE LAW OF A GENERAL NATURE NOW IN FORCE AND NOT IN
VOL. 1, THE SAME BEING THE CODE OF CIVIL PROCEDURE AND ALL REME-
DIAL LAW, THE PROBATE CODE, THE PENAL CODE AND THE CRIM-
INAL PROCEDURE, THE CONSTITUTIONS AND ORGANIC ACTS.

COMPILED AND ANNOTATED

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SECOND EDITION.

ST. PAUL:

PUBLISHED BY THE AUTHOR.

1891.

GENERAL STATUTES OF MINNESOTA.

CHAPTER 43 (G. S. ch. 60).

MASTERS, APPRENTICES, SERVANTS.

In consequence of Probate Code — acts 1889, ch. 46 — expunging thirteen chapters of G. S., the chapter numbers of G. S. could not be preserved.

Sections.
3847-3852. Apprenticeship.
3853-3856. Indenture.

Sections.
3857-3861. Master's duties.
3862-3864. Misconduct.

APPRENTICESHIP.

SEC. 3847. **Age of.**— All children under the age of fourteen years may be bound as apprentices or servants until that age; and all minors above the age of fourteen years may be bound as apprentices or servants, males to the age of twenty-one years, and females to the age of eighteen years, or to the time of their marriage within that age, in the manner prescribed in this chapter.

G. S. ch. 60, § 1. Apprentice, from *apprendre*, to learn; hence contract to learn and not merely to serve is apprenticeship. 1 Bl. Com. 426; 33 E. C. L. 236; 21 E. C. L. 739. This section abrogates common-law rule that father could not apprentice without child's consent. 8 East, 25; 9 East, 295; 5 Bac. Abr. 342; 33 E. C. L. 236. Dissolved by consent of all the parties (4 M. & S. 386; 1 Salk. 68; Bac. Abr.), by gross misbehavior or misconduct (8 E. C. L. 460; 47 id. 662), and cruel and inhuman treatment. Bac. Abr.; 2 Mon. 82.

SEC. 3848. **Who to bind apprentice.**— Children under the age of fourteen years may be bound by their father, or, in case of his death or incompetency, by their mother, or by their legal guardian; and, if illegitimate, they may be bound by their mother; and if they have no parent competent to act, and no guardian, they may bind themselves, with the approbation of the county commissioners of the county where they reside; but the power of a mother to bind her children, whether legitimate or illegitimate, shall cease upon her subsequent marriage, and shall not be exercised by herself or her husband, at any time during such marriage.

G. S. ch. 60, § 2. At common law children could not be separated from their parents wantonly. 1 B. & C. 460; 3 id. 484; 4 id. 94. Not even under 5 Eliz. ch. 4, § 35; or 56 Geo. III., ch. 139.

SEC. 3849. **Consent of minor.**— Minors above the age of fourteen years may be bound in the same manner: *provided*, that when they are bound by their parent or guardian, the consent of the minor shall be expressed in the indenture, and testified by his signing the same.

G. S. ch. 60, § 3.

SEC. 3850. **Chapter apply to mistresses.**— All the foregoing provisions shall apply as well to mistresses as to masters.

G. S. ch. 60, § 17.

SEC. 3851. **Discharged by death of master.**— No indenture of apprenticeship or service made in pursuance of this chapter, shall bind the minor

after the death of the master; but the minor shall be thenceforth discharged therefrom, and may be bound out anew.

G. S. ch. 60, § 16.

SEC. 3852. Father's right.— Nothing contained in this chapter shall affect a father's right, at common law, to assign or contract for the service of his children during their minority.

G. S. ch. 60, § 18. Paternal power at common law (1 Mason, 71-88); maternal power (4 Binney, 492).

INDENTURE.

SEC. 3853. Required.— No minor shall be bound, as aforesaid, unless by an indenture of two parts, sealed and delivered by both parties; and when made with the approbation of the county commissioners, their approbation shall be certified in writing, signed by them, upon each part of the indenture.

G. S. ch. 60, § 4. At common law infant not bound by covenants, but parent or guardian was. 5 E. C. L. 59; 1 Pars. Cont. 534; 1 Chitt. Pl. 132; 10 Johns. 99; 4 Cro. 179; 7 Mad. 15. But under statutes when writing shows that infant intended to bind himself, he will be bound so far as beneficial to him. 8 Johns. 331; 14 Johns. 374; 10 Pick. 68; 2 Mass. 228. Master must teach the trade or business (Bac. Abr.; 1 Pars. Cont. 533); furnish medical attendance (1 Strange, 99; 8 C. & P. 153); though father bound when ordered by him; furnish necessaries (34 E. C. L. 153); and entitled to custody of apprentice, all of his earnings and value of his services (26 E. C. L. 1; 3 M. & S. 191; 1 Bl. Com. 429).

SEC. 3854. Consideration.— All considerations of money or other things, paid or allowed by the master, upon any indenture of apprenticeship or service, made in pursuance of this chapter, shall be paid or secured to the sole use of the minor bound thereby.

G. S. ch. 60, § 7.

SEC. 3855. Refunding consideration.— When any servant, apprentice or master is discharged from any indenture, in pursuance of the provisions of this chapter, and any sum of money has been paid or agreed for by either party on the execution of such indenture, the court may, at the time they discharge such person from the indenture, also order such sum of money, or any part thereof, as the equity of the case may require, to be refunded, if paid, to him who advanced the same, or his personal representative; and if not paid, they may, by order, discharge the same, and direct any securities given therefor to be delivered up or cancelled.

G. S. ch. 60, § 15. This is the common-law rule. Bac. Abr. (Master); 1 Saund. 313.

SEC. 3856. Indenture to state age of minor.— The age of every infant, bound pursuant to the provisions of this chapter, shall be inserted in the indentures, and be taken to be the true age, without further proof thereof; and whenever any public officers are authorized to execute any indentures, or their consent is required to the validity of the same, they shall inform themselves fully of the infant's age, and deposit the counterpart of any indentures executed by themselves in the registry of deeds of their county.

G. S. ch. 60, § 5.

MASTER'S DUTIES.

SEC. 3857. Educate apprentice.— Provision shall be made in every indenture specified in this chapter, for teaching the apprentice to read and write, and to be instructed in the general rules of arithmetic. When, however, any minor is bound for a less term than three years, such agreement in reference to the instruction of such minor may be made as shall be deemed right.

G. S. ch. 60, § 6.

SEC. 3858. Treatment of apprentices.— All persons shall inquire into the treatment of apprentices bound by them respectively, or with their approbation, and of all bound by their predecessors in office, and defend them from all cruelty, neglect and breach of contract on the part of their masters.

G. S. ch. 60, § 8. Common-law doctrine of residence. 1 Tuck. Bl. 78; 12 Pick. 107.

SEC. 3859. Action against master.— Every master is also liable to an action on the indenture, for the breach of any covenant on his part therein contained, which action shall be brought in the name of the minor, by his guardian or next friend, or by himself after his majority; but no such action can be maintained unless commenced during the term of apprenticeship or service, or within two years after the expiration thereof.

G. S. ch. 60, § 12. This is common law. Bac. Abr. (Master): 1 Tuck. Bl. 78. At common law action for harboring apprentice maintainable. 1 Wend. 376; 6 Johns. 274; 19 Pick. 556.

SEC. 3860. Same — Damages.— If such action is brought, and a recovery had, during the minority of such apprentice or servant, the damages recovered in such action, after paying the necessary charges of the prosecution, shall be the property of the minor, and may be appropriated to his use, or invested for his benefit, in the same manner as any other property belonging to him.

G. S. ch. 60, § 13.

SEC. 3861. Same — Discharge of minor.— If judgment in such action, upon the final determination thereof, is rendered for the plaintiff, the court in which the same is prosecuted, may, thereupon, by an order to be entered on its minutes, discharge the minor from his apprenticeship or service, if it has not already been done in the manner before provided; and the minor may thereupon be bound out anew.

G. S. ch. 60, § 14.

MISCONDUCT.

SEC. 3862. Complaint for.— Complaints by parents, guardians or county commissioners, for misconduct or neglect of the master, and by the master, for gross misbehavior, or refusal to do his duty, or wilful neglect thereof, on the part of the apprentice or servant, may be made to the court of the county where the master resides, setting forth the facts and circumstances of the case. The court shall order notice to the adverse party, and, if the complaint is by the master, to all persons who have covenanted in behalf of the apprentice or servant, and to the county commissioners who approved of the indenture, or their successors in office, and shall hear and determine the case, and render judgment accordingly.

G. S. ch. 60, § 9. At common law master may correct apprentice for negligence, disobedience or improper conduct if done in moderation, but cannot delegate this authority (9 Co. 76; 1 Tuck. Bl. 77; Bac. Abr.), apprenticeship being a personal trust. 2 Kent, Com. 265; 2 Str. 115; 4 Serg. & R. 109. Indictment for immoderately beating. 2 Shaw, 289.

SEC. 3863. Same — Judgment.— The court may render a judgment or decree that the minor be discharged from his apprenticeship or service, or the master from his contract; and the minor thus discharged may be bound out anew.

G. S. ch. 60, § 10.

SEC. 3864. Same — Costs.— Costs may be awarded to the prevailing party, and execution issued therefor; but no costs shall be awarded against county commissioners, unless it appears that the complaint was made without just and reasonable cause. Costs in favor of the master may be recovered of the parent or guardian who executed the indenture, or, if there is no parent or guardian liable therefor, such costs may be recovered against the minor when he arrives at full age.

G. S. ch. 60, § 11.