

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THOSE WHICH HAVE BEEN REPEALED OR SUPERSEDED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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ownership of the signer or any prior holder. Any holder of any such security receipt or equipment trust certificate, unless the same has been endorsed to a specified person other than the holder and has not been endorsed in blank by such specified person, shall be deemed prima facie to have title thereto as aforesaid; but when it is shown that the title of any person who has negotiated such instrument is defective, the burden is on the holder to prove that he or some person under whom he claims acquired the title as a holder for value and without notice as aforesaid.

4. The provisions of this section shall not be applicable to the transfer of any security receipt or equipment trust certificate when it is shown that such trans-

fer was made after the date fixed therein for the performance by the signer or his obligations thereunder or, if no date is fixed, after the expiration of a reasonable time after the happening of the contingency upon which the signer became obligated to perform. ('27, c. 433, § 2)

7247-3. Same—Negotiability of instruments not affected—This act shall not be construed to limit or impair the negotiability or quasi negotiability by agreement or otherwise of any instrument whether or not defined therein. The provisions of this act shall apply only in respect of instruments issued after the date of the taking effect thereof. ('27, c. 433, § 3)

CHAPTER 52

PARTITION FENCES

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7248. Fence viewers—Supervisors in their respective towns, aldermen of cities in their respective wards, the Commissioner of Public Works in cities having a commission form of government, and village trustees in their respective villages, shall be fence viewers. (R. L. '05 § 2748; G. S. '13 § 6016, amended '21 c. 25 § 1)

The plaintiff in an action for a permanent injunction, to which he was not found entitled, was not entitled to an injunction restraining the defendant from interfering with a division line fence built by him, the plaintiff, upon land occupied by the defendant for many years, until the true boundry should be determined in subsequent litigation. 165-415, 206+654.

7249. One barbed wire permitted with woven wire as a legal fence—All fences consisting of not less than 32-inch woven wire and two barbed wires firmly fastened to well set posts not more than one rod apart, the first barbed wire being above and not more than 4 inches from the woven wire and the second barbed wire being above and not more than 8 inches from the first wire; all fences consisting of not less than 40-inch woven wire and one barbed wire firmly fastened to well set posts not more than one rod apart, the said barbed wire being above and not more than 4 inches from the said woven wire; all fences consisting of woven wire not less than 48 inches in height, and one barbed wire not more than 4 inches above said woven wire firmly fastened to well set posts not more than one rod apart; all fences consisting of not less than four barb wires with at least forty barbs to the rod, the wires to be firmly fastened to posts not more than one rod apart, the top wire to be not more than 48

inches high and the bottom wire not less than twelve inches nor more than sixteen inches from the ground; and all fences consisting of rails, timbers, wires, boards, stone walls or any combination thereof or of streams, lakes, ditches, or hedges, which shall be considered by the fence viewers as equivalent to any of the fences herein described shall be deemed legal and sufficient fences. In all cases where adjoining land owners disagree as to the kind of fence to be built on any division line, the matter shall be referred to the fence viewers who shall determine what kind of fence shall be built on such line and shall order such fence built according to law. Whenever the lands of two persons adjoin, and the land of one of such persons is enclosed on all sides except the side forming a division line between such lands by a woven wire fence, then and in such case each of such persons shall erect a fence of like character and quality along such division line for a distance of one-half the total length thereof, and shall thereafter maintain the same in equal shares. (R. L. '05 § 2749; G. S. '13 § 6017, amended '15 c. 282; '17 c. 408 § 1)

29-336, 340, 13+168; 30-1, 13+906; 30-489, 16+271; 32-88, 19+392; 80-508, 83+454; 96-176, 104+827.
130-518, 153+1086.

7250. Occupants to maintain—The adjoining owners or occupants of lands in this state when the land of one or both of such owners is in whole or in part improved and used, and one or both of such owners desires his or their land to be in whole or in part fenced, shall build and maintain the partition fence between their lands in equal shares. (R. L. '05 § 2750, amended '13 c. 525 § 1; '15 c. 173 § 1) [6018] 15-350, 283.

7251. Neglect—Complainant may build or repair—In case any person neglects to build, repair or rebuild any partition fence which of right he ought to build or maintain the aggrieved party may complain to the fence viewers who, after notice to the parties, shall examine such fence or into the need of such proposed fence and if they determine that the fence then existing is insufficient or a new fence is necessary, they shall notify the delinquent owner or occupant in writing to that effect and direct him or them to build, repair or re-build the fence within such time they deem reasonable and if the delinquent fails to comply with such directions, the complainant may build, repair or

rebuild such fence at his own expense subject to reimbursement as hereinafter provided. (R. L. '05 § 2751; G. S. '13 § 6019, amended '15 c. 173 § 1) 65-310, 315, 67+997.

7252. Value of cost and repairs, etc., recoverable—When any such new or deficient fence built, repaired or re-built by the complainant under the provisions of Section 7251, is adjudged sufficient by the fence viewers, they, after giving the occupants reasonable notice and an opportunity to be heard shall ascertain the expense thereof and give to the complainant building, repairing or re-building the same a certificate of their decision under their hands and of the amount of such expense together with their fees; and thereupon, such complainant may demand, either of the owner or occupant of the land where the fence was wanting or deficient double such ascertained expense together with such fees; and in case of failure to pay the sum so due within one month after demand, the complainant may recover the same, with interest in a civil action. (R. L. '05 § 2752; G. S. '13 § 6020, amended '17 c. 173 § 1)

42-363, 44+255; 65-310, 67+997.

7253. Controversy, how settled—If a controversy arise in regard to the rights in partition fences of the respective occupants, or their obligation to maintain the same, either party may apply to the fence viewers, who, after due notice to the parties, may assign to each his share in such fence, and direct the time within which the same shall be erected or repaired. Such assignment may be filed for record with the register of deeds, and thereupon shall be binding upon the parties and upon all succeeding occupants of the lands. (2753) [6021]

30-1, 13+906; 42-363, 44+255.

7254. Failure to maintain—In case any party fails to erect or maintain the part of any fence so assigned to him, the aggrieved party may erect and maintain the same, and shall be entitled to double the value thereof, to be ascertained and recovered as provided in the case of repairs. (2754) [6022]

30-1, 13+906.

7255. Division of fences—All divisions of fences made by fence viewers under this chapter, or which shall be made by owners of adjoining lands in writing, witnessed by two witnesses, signed and acknowledged by the parties, and filed for record with the register of deeds, shall be valid against the parties thereto and their heirs and assigns. (2755) [6023] 116-195, 133+467.

7256. Party erecting more than share—When, in any controversy between occupants of adjoining lands as to their respective rights in any partition fence, it shall appear to the fence viewers that either of the occupants has voluntarily erected, or otherwise become the proprietor of more than his just share of such fence, before a complaint was made, the other occupant shall pay for so much thereof as may be assigned to him to repair and maintain, the value of which shall be ascertained and recovered in the manner in this chapter provided. (2756) [6024]

7257. Lands bounded by stream, etc.—When lands of different persons which are required to be fenced are bounded upon or divided by a stream or pond, which in the judgment of the fence viewers is not in itself a sufficient fence, and it is in their opinion impracticable, without unreasonable expense, for a partition fence to be made on such waters in the place

where the true boundary line is, if the occupant on either side refuses or neglects to join with the occupant on the other in making a partition fence on one side or the other, or if such occupants disagree respecting the same, the fence viewers, on application of either party, shall forthwith view such stream or pond, and, after giving due notice to the parties, shall determine, in writing, on which side thereof the fence shall be erected and maintained, or whether partly on one side and partly on the other. If either party fails to build or maintain his part of such fence according to such determination, it may be built and maintained by the other party, and the delinquent party shall be subject to all the charges and costs as in other cases in this chapter provided, to be recovered in like manner. (2757) [6025]

7258. Lands occupied in common—Whenever one of the occupants of inclosed lands belonging to different persons in severalty, which have been occupied by them in common without a partition fence, desires to occupy his part in severalty, and the other party refuses or neglects to divide the land with him or to build a fence on his part of the land when divided, the party desiring it may have the same divided and assigned by the fence viewers in the manner provided in this chapter. (2758) [6026]

7259. Viewers to fix time for building—Upon such division and assignment being made, the fence viewers may in writing, under their hands, assign a reasonable time for building the fence, having regard to the season of the year, and if either party fails to build his part thereof within the time so assigned the other party may, after completing his own part thereof, build the other part, and recover therefor double the expense thereof, together with the fees of the fence viewers, to be ascertained as provided in this chapter. (2759) [6027]

7260. Rule when lands are first inclosed—When uninclosed lands are afterwards inclosed, the owner or occupant thereof shall pay one-half of the value of each partition fence extending upon the line between his land and the inclosure of any other owner or occupant. In case the parties do not agree such value shall be ascertained by the fence viewers and stated in writing under their hands, and, if such owner or occupant fails to make such payment within sixty days after the value is so ascertained and a demand made, the owner of such fence may recover such value and the cost of ascertaining the same in a civil action. (2762) [6028]

24-307.

7261. Viewers when fence on town line—Where a partition fence is to be built on a line between towns, or partly in one town and partly in another, a supervisor taken from each town shall be the fence viewers thereof. (2763) [6029]

7262. Where fence runs into water—Unless otherwise agreed by the parties partition fences running into water shall be built in equal shares, and, in case either party fails to build or maintain the share belonging to him, similar proceedings shall be had as in the case of other fences and with like effect. (2764) [6030]

7263. Effect of record of division—Where the line upon which a partition fence is to be built between unimproved lands has been divided by the fence viewers, or by the recorded agreement of the parties, the several owners thereof, and their heirs and assigns forever, shall erect and maintain such fences agreeably to such divisions. (2765) [6031]

7264. Neglect to perform duty—Penalty—Any fence viewer who shall unreasonably neglect to perform any duty required by this chapter shall forfeit five dollars to the town, and shall also be liable to the party injured for all damages consequent upon such neglect. (2766) [6032]

7265. Compensation of viewers—Each fence viewer shall be paid for his services by the person employing him at the rate of one dollar for each day's employ-

ment. If such compensation be not paid within thirty days after the service is performed, he may recover double the amount thereof in a civil action. (2767) [6033]

7266. Viewers in counties not divided—In counties not divided into towns, the county commissioners shall be fence viewers, and shall be governed by the provisions of this chapter. (2768) [6034]

CHAPTER 53

ESTRAYS AND BEASTS DOING DAMAGE

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ESTRAYS

7267. Who may take up—No person shall take up any estray, except horses or mules, unless such estray shall be found on lands owned or occupied by him in the town wherein he resides. (2769) [6035] 31-451, 18+315.

7268. Finder to give notice—Penalty—Every finder of an estray, within seven days thereafter, shall notify the owner thereof, if to him known, and request him to pay all reasonable charges and take such estray away; but, if such owner be to him unknown, he shall within ten days file a notice with the town clerk. Such clerk shall transmit a copy thereof to the register of deeds, who shall record the same in a book designated "Estray Book." If the estray is of less value than five dollars, such finder shall give posted notice thereof in said town, but, if the value exceeds five dollars, he shall give four weeks' published notice thereof. Such notice shall briefly describe the estray, giving its marks, natural and artificial, as near as practicable, naming the residence of the finder, and specifying the town,

section, and time when taken up. For failure to give such notice, the finder shall be liable to the owner of such estray in double the amount of damages sustained by him thereby. (2770) [6036]

7269. Appraisalment—Every finder of an estray of the value of ten dollars or more at the time of taking up shall also within one month thereafter cause the same to be appraised by a justice of the peace of such town, and the certificate of such appraisalment shall be filed with the town clerk. The finder shall pay the justice fifty cents for such certificate, and six cents per mile for each mile necessarily traveled to make the same. (2771) [6037]

7270. Charges for keeping—The person entitled to the possession of any such estray at any time within one year after such notice is filed with the town clerk may have the same restored to him upon proving his right thereto, and paying all lawful charges that occur in relation to the same. If such person and the finder cannot agree as to the amount of such charges, or upon what should be allowed for the use of such estray, either party, on notice to the other, may apply to a justice of the peace of such town to settle the same, who for that purpose may examine witnesses on oath. If any amount shall be found due to the finder, over the value of the use of such estray, the same, with costs, shall be a lien upon such estray, and the costs of such adjudication shall abide the decision of the justice. (2772) [6038]

7271. Sale—If no claimant for such estray shall cause its return to him as before provided, and if such estray shall not have been appraised at more than ten dollars, the finder shall thereupon become the owner thereof; but, if such appraised value exceeds ten dollars, the estray shall be sold at public auction by any constable of the county on the request of the finder. Notice thereof shall be given and the sale conducted and the same fees allowed as in case of sales upon justice's execution. The finder may bid at such sale, and at the time thereof shall deliver to such officer a statement in writing of his charges. After deducting such charges, if reasonable, and the costs of sale, the officer shall deposit the remainder of the money, together with said written statement, and a statement of the costs of sale, with the county treasurer, taking his receipt therefor. If the finder of any such estray shall fail to cause such sale to be made, he shall pay to the town the value of such estray, to be recovered in an action by the town. (2773) [6039]

7272. Money, how disposed of—If the money so deposited be not claimed by the former owner of the estray within one year after such sale, the same shall