

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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Provision for alimony and support of children may be changed by the court though incorporated in the decree by stipulation. 181M18, 231NW413.

Agreement between parties as to amount of alimony did not oust court of power to amend its judgment as to alimony. 181M421, 232NW793. See Dun. Dig. 2805.

Fact that income from a trust estate had not been paid over to defendant by trustees at time of hearing did not prevent court from taking such income into consideration in awarding additional alimony. 181M421, 232NW793. See Dun. Dig. 2805.

Fact that income from trust cannot be reached or attached by creditors while in hands of trustees did not prevent its consideration by court in determining alimony. 181M421, 232NW793. See Dun. Dig. 2803.

Court may modify alimony allowance where there has been a substantial change in the situation of the parties. *Holida v. H.*, 237NW2. See Dun. Dig. 2805.

§8604. Security—Sequestration—Contempt.

Contempt is not a "crime" within §9934, and, in view of §9802, punishment can only be by imprisonment in county jail and not in a workhouse. 175M57, 220NW414.

Postnuptial agreements properly made between husband and wife after a separation, are not contrary to public policy, but the parties cannot, by a postnuptial agreement, oust the court of jurisdiction to award alimony or to punish for contempt a failure to comply with the judgment though it followed the agreement. 178M75, 226NW211.

Postnuptial agreement to pay wife certain weekly amounts, incorporated in judgment of the court, may be enforced by contempt. 178M75, 226NW701.

The payment of attorney's fees allowed in a contempt proceeding to enforce a provision in a judgment of divorce for the payment of support money may be coerced by imprisonment. 178M75, 226NW701.

The alimony obligations of a nonresident husband personally served out of the state may be enforced out of his property in this state when the custodian thereof is made a party defendant, and the court has entered a preliminary order enjoining him from delivering to the husband any of the money or other personal property in his possession, and restraining the husband from disposing of any of his property in the state; such order and procedure constituting an effective seizure of the property. 181M564, 233NW312. See Dun. Dig. 1553, 2811.

LIMITED DIVORCES

§8609. For what causes.

Evidence held to warrant decree of separation. 171M213, 213NW919.

Evidence held to sustain finding that plaintiff could not reside with defendant with safety and self-respect, warranting separation. 172M96, 214NW771.

A judgment denying the wife absolute divorce for cruelty is not a bar to her action for separate maintenance and support for children, where she has legal cause for living apart from her husband, but there is an estoppel where maintenance action is grounded upon the same specific acts of cruelty. 174M159, 218NW559.

§8613. As to alimony and wife's property.

Finding as to value of homestead held sustained by the evidence. 171M213, 213NW919.

On decree of separation from husband earning \$115 monthly, court properly awarded wife use of homestead during five years separation and \$25 per month alimony, the wife having an income of \$57.50. 171M213, 213NW919.

Where the evidence of misconduct of husband does not justify either an absolute or a limited divorce, the court is not authorized to terminate the husband's inchoate interest in the wife's real estate even though the misconduct may legally justify her in living apart from him. 174M159, 218NW559.

§8614. When separation not granted.

177M178, 225NW104.

Court may require father to pay support of child to wife even though she has no legal cause to live apart from him. 174M159, 218NW559.

Irrespective of this section a court of equity may create a lien against real estate of a husband in favor of a wife for her separate maintenance while justifiably living apart from him, though the decree is not enforceable against the husband personally. 178M531, 227NW895.

A husband sued for a limited divorce held not estopped by the decision against him in a subsequent suit for absolute divorce from his wife. 178M1, 226NW412.

§8615. Revocation.

A husband sued for a limited divorce held not estopped by the decision against him in a subsequent suit for absolute divorce from his wife. 178M1, 226NW412.

CHAPTER 72

Married Women

§8616. Separate legal existence.

Status of marriage has not been modified by the Married Woman's Act, and only property rights and contracts are affected thereby. *State v. Arnold*, 235NW373. See Dun. Dig. 4258.

§8617. Property rights.

Wife by letting husband use and manage her property apparently as his own, may estop herself from asserting ownership as against a mortgagee of the husband. 171M276, 214NW45.

Recital in instrument concerning conveyance of land signed by defendant and husband of deceased were not conclusive as to the deceased when she was the real party in interest. *Kehrer v. S.*, 235NW386. See Dun. Dig. 4259(84).

§8618. Contracts—Torts—Etc.

Contract whereby plaintiff was employed at a stipulated compensation per month as a farm hand was not abrogated by marriage of plaintiff to his employer, but remained a binding ob-

ligation upon her, and he could recover for work performed after the marriage. *Archer v. M.*, 236NW455. See Dun. Dig. 4258.

§8620. Liability of husband and wife.

A county which furnishes necessary support to a woman, deserted by her husband, may recover of the husband. 175M39, 220NW156.

Verdict against parent for services of daughter, held not excessive, and evidence as to previous earnings of daughter, held admissible on issue of value. 180M100, 230NW478.

Wife was not liable for negligence of her husband in driving a car registered in her name. *Cewe v. S.*, 233NW805. See Dun. Dig. 5834b.

§8621. Contracts between husband and wife.

Archer v. M., 236NW455; note under §8618.
½. Agency.

In action by woman for fraud in sale of stock of financial corporation, evidence held to show that plaintiff's husband acted as her agent. *Watson v. G.*, 236NW213. See *Dun. Dig.* 8612.

2: Other contracts.

Evidence held to show conveyance by husband and wife to daughter rendered husband insolvent, and conveyance fraudulent as to creditors. 171M284, 213NW911.

Where the promises of the husband under an antenuptial contract, to make payments to his wife have matured and the money has become due, the causes of action so perfected are not defeated by the wife's subsequent desertion of the husband. 172M91, 214NW791.

§8622. Barring interest of spouse.

Where the evidence of misconduct of husband does not justify either an absolute or a limited divorce, the court is not authorized to terminate the husband's inchoate interest in the wife's real estate even though the misconduct may legally justify her in living apart from him. 174M159, 218NW559.

§8622-1. Dower and curtesy abolished in certain lands.

Act abolishing dower and curtesy and statutory interests in lieu thereof in all lands conveyed by guardians of incompetent married persons prior to Jan. 1, 1929. Laws 1931, c. 29.

CHAPTER 73

Adoption and Change of Name

§8630. Status of adopted child.

When the name of an adopted child is omitted from the will of the parent, the presumption is

that the omission was not intentional and was occasioned by accident or mistake. 175M193, 220NW601.

CHAPTER 73A

Dependent, Neglected and Delinquent Children

See §§208-1 to 208-9.

§8636. Definitions.

Juvenile delinquents are not criminals. *State v. Zenzen*, 227NW356.

No appeal lies from a decision of a juvenile court under this chapter. *State v. Zenzen*, 227NW356.

Fact that maternal grandmother has money and would be able to support children does not negative a finding of dependency on the part of children and the right of mother to a pension. *Op. Atty. Gen.*, Oct. 30, 1930.

§8637. Jurisdiction of district court—Jury trial—Probate court—Application.—The District Court in counties now or hereafter having a population of more than 40,000 inhabitants except in such counties of the Seventh Judicial District shall have original and exclusive jurisdiction in all cases coming within the terms of this act. In all trials in the district court under this act, except as hereinafter provided, any person interested therein may demand a jury; or a judge of his own motion may order a jury to try the case. In counties now or hereafter having a population of not more than 40,000 inhabitants and in all counties of the Seventh Judicial District the probate court shall have jurisdiction over the appointment of guardians of dependent, neglected or delinquent children for the purpose of this act. The jurisdiction of both the district and probate courts over cases of dependency, neglect and delinquency arising under this act shall extend to all persons resident or found within the territorial limits of the court, although the evidentiary facts showing such dependency, neglect or delinquency may have occurred outside such territorial limits. (As amended Apr. 20, 1931, c. 250, §1.)

* * * *

Laws 1931, 250, §1, amends the first paragraph of this section to read as above.

§8638. Judges of juvenile court.—In counties having more than 40,000 except the Fourth Judicial District, and the counties in the Seventh Judicial District the judges of the district court shall at such times as they shall determine designate one of their number whose duty it shall be to hear all cases arising under this act, unless absent or disabled, in which case another judge shall be temporarily assigned for said purposes; and such designation shall be for the period of one year unless otherwise ordered. The judge of the juvenile court so designated shall devote his first service and all necessary time to the business of the juvenile court, and this work shall have precedence over all his other court work. When deemed advisable the district judges may designate two judges for the purposes and subject to the provisions specified in this section. A special court room, to be designated as the juvenile court room, shall be provided for the hearing of such cases, and the findings of the court shall be entered in a book or books to be kept for that purpose, and known as the "juvenile record," and the court may for convenience be called the juvenile court of the appropriate county. The title of proceedings in the juvenile court, excepting prosecutions under section 27 and 28 of this act, shall be substantially as follows:

Juvenile Court, County of

In the matter of as a dependent (or neglected or delinquent, as the case may be) child. (As amended Apr. 20, 1931, c. 250, §2.)

* * * *

Laws 1931, c. 250, §2, amends the first paragraph of this section to read as above.

§8640. Salary of bailiff in Juvenile Court in certain counties.—In all counties of this state having, or which hereafter shall have a