

1936 Supplement  
To  
**Mason's Minnesota Statutes**  
1927

(1927 to 1936)  
(Superseding Mason's 1931 and 1934 Supplements)

Containing the text of the acts of the 1929, 1931, 1933 and 1935 General Sessions, and the 1933-34 and 1935-36 Special Sessions of the Legislature, both new and amendatory, and notes showing repeals, together with annotations from the various courts, state and federal, and the opinions of the Attorney General, construing the constitution, statutes, charters and court rules of Minnesota together with digest of all common law decisions.



Edited by

WILLIAM H. MASON, Editor-in-Chief  
W. H. MASON, JR. }  
R. O. MASON } Assistant Editors  
J. S. O'BRIEN }

MASON PUBLISHING CO.  
SAINT PAUL, MINNESOTA  
1936

## Part II. Property Rights and Domestic Relations

## CHAPTER 59

## Estates in Real Property

**8032. How divided.**

Life tenant of property subject to mortgage must keep down the interest, and on redemption after foreclosure holds for the joint benefit of himself and the remainderman, the latter being required to contribute his share of amount necessary to redeem. 171M182, 213NW736.

Amount remainderman must contribute on redemption by life tenant after mortgage foreclosure. 171M182, 213NW736.

Where remainderman participated in transaction which wrongfully disabled life tenant from redeeming from mechanic's lien foreclosure, redemption by one to whom they had given a sham mortgage was in effect redemption by remainderman and an annulment of the foreclosure. 173M128, 216NW798.

Equity will not take jurisdiction at instance of life tenant and sell property merely because reinvested proceeds would produce a larger net income. 175M531, 221NW906.

Life tenant's lien on remainder, to secure contributions chargeable against latter because of life tenant's redemption from an earlier mortgage, passes to mortgagee under life tenant's mortgage of whole estate. *Faulkenburg v. W.*, 194M154, 259NW802. See Dun. Dig. 3167.

As to remaindermen, a life tenant's only duty in respect to a prior mortgage lien upon whole estate is to keep down interest. That lien secures a debt for payment of which life tenant is liable contractually does not impose upon latter, as to remaindermen, duty to pay as principal. *Id.* See Dun. Dig. 3170(51).

**8033. Estates in fee simple.**

Royalty tax on lease of mineral lands. 172M263, 271, 273, 215NW71, 180, 181.

**8036. Freeholds—Chattels real—Chattel interests.**

Royalty tax on lease of mineral lands. 172M263, 271, 273, 215NW71, 180, 181.

**8041. Remainders defined.**

Liability for improvements made by life tenant. 180M151, 230NW634.

**8043. Future estates vested or contingent.**

A will devising and bequeathing all of testator's property to a trustee in trust for his wife for life (sub-

ject to an annuity fund for another) and directing trustee upon death of his wife to transfer and deliver residue then remaining in equal shares to his children then living, child or children then living of any deceased child of his, did not vest remainder until time for distribution arrived; and plaintiff, widow of testator's son, who died, without issue, subsequent to testator's death but prior to death of his mother, takes no interest in estate. *Levings v. F.*, 192M143, 255NW828. See Dun. Dig. 10278.

Section does not prohibit a testator from clearly specifying in his will when a remainder after a particular estate shall vest. *Id.*

**8044. Suspension of power of alienation.**

Power of alienation was not unlawfully suspended by a provision in a contract for sale of land that no assignment should be valid unless approved in writing by vendors. 175M502, 221NW871.

**8062. Expectant estates protected.**

Where a mortgagee takes the legal title to the mortgaged land a merger will not be held to take place if such was not the intent and would manifestly be against his interest. *Hartford A. & I. Co. v. F.*, (CCA8), 59F(2d) 950. See Dun. Dig. 6273.

**8065. Qualities of expectant estates.**

Sale of contingent remainder upon execution. 15MinnLawRev835.

**8068. Directions for accumulation, when void.**

Where income of trust fund was to go to testator's daughter for life and after her death, corpus to go to offspring when they attained various ages, no intention that accumulation of income should take place after death of daughter will be implied. *Jacobson v. M.*, 191M 143, 253NW365. See Dun. Dig. 7480.

**8074. Estates in common.**

Deed to two persons "or the survivor of either," held to create joint tenancy, and survivor became sole owner in fee. 181M8, 231NW401.

Purchase of bonds by husband and wife, held to create an estate in joint tenancy. 181M128, 231NW794.

Grant to two or more persons "and to the survivor." 18MinnLawRev79.

## CHAPTER 59A

## Property of Absentees

**8080-1. Management and disposition of property.**

This act provides a cumulative proceeding and is not a bar to administration by probate court upon the estate of one absent for seven years. 175M493, 221NW876.

**8080-13. Same—Distribution of balance.**

175M493, 221NW876; note under §8080-1.

## CHAPTER 60

## Uses and Trusts

**8081. Uses and trusts abolished.**

Trusts in both real and personal property are abolished except as authorized by statute. 171M237, 213NW 893.

Where the trust instrument vests title in the trustee and appropriates the property to the purpose of the trust and nothing remains to be done by the grantor, an "executed trust" is created. 171M237, 213NW893.

An executory trust requires a consideration; an executed trust does not. 171M237, 213NW893.

The beneficiaries of a trust must be certain or capable of being made certain. Where they are limited to those who furnished uncompensated financial aid to the grantor for a specified purpose, they are capable of being made certain. 171M237, 213NW893.

A beneficiary must comply with the conditions precedent prescribed by the trust instrument to acquire any rights under it. 171M237, 213NW893.

Certain persons held not beneficiaries of trust created for persons aiding a corporation. 171M237, 213NW893.

Property held in trust may be attached, and stockholder's liability may be enforced against it. 172M83, 214NW771.

Taxes on unproductive property held in trust for a life beneficiary may be charged to the corpus of the estate where the trustee under discretionary power holds such property for a more advantageous market. *Moore's Will*, 185M342, 241NW63. See Dun. Dig. 3170(50).

If one person pays money to another, it depends upon manifested intention of parties whether a trust or a debt is created. If intention is that money shall be kept or used as a separate fund for benefit of payer or a third person, a trust is created. *City of Canby v. B.*, 192M571, 257NW520. See Dun. Dig. 9875.

Charitable trusts were not authorized in view of this statute until passage of Mason's Stats. 1927, §§8090-1 to 8090-4. *Lundquist v. F.*, 193M474, 259NW9. See Dun. Dig. 9878.

Termination and revocation of trusts. 19MinnLawRev 225.

Reservation of control by settlor as rendering trust testamentary. 19MinnLawRev321.