

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 }

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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. 172M 149, 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.*, 189M213, 248NW 698. 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).

COMMON LAW

DECISIONS RELATING TO BANKRUPTCY
IN GENERAL**1. In general.**

Construction of bankruptcy act by United States Supreme Court prevails over any contrary interpretation by state courts. *Landy v. M.*, 193M252, 258NW573. See Dun. Dig. 738.

Lien of a judgment procured less than four months preceding filing of petition in bankruptcy is annulled thereby, even as to homestead set aside as exempt. *Id.* See Dun. Dig. 741.

A trustee in bankruptcy, who brings suit in state court alleging conversion of property of bankrupt estate by reason of an invalid foreclosure of chattel mortgage, is bound by measure of damages in state jurisdiction and is entitled to recover only difference between value of property and amount of lien, and where property converted was worth less than amounts of chattel mortgage liens, judgments were rightly entered for defendants. *Ingalls v. E.*, 194M332, 260NW302. See Dun. Dig. 746.

Mortgagors' bankruptcy did not suspend court's order extending time for redemption from mortgage sale, order having fixed terms and conditions, compliance with which was wholly lacking. *Butts v. T.*, 194M243, 260NW 308. See Dun. Dig. 740.

2. 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, 242NW 292.

Where, without fraud, a bankrupt failed to schedule as an asset an interest in real estate and he is discharged without property being disposed of by trustee, title which latter took by operation of law under bankruptcy act reverts to owner subject to a reopening of bankruptcy proceeding. *Stipe v. J.*, 192M504, 257NW99. See Dun. Dig. 751.

A discharge in bankruptcy does not discharge an assigned claim for alimony. *Cederberg v. G.*, 193M252, 258 NW574. See Dun. Dig. 749.

Lien of judgment upon real estate is not affected by discharge in bankruptcy, although judgment debtor is relieved of personal liability. *Rusch v. L.*, 194M469, 261 NW186. See Dun. Dig. 749(17).

CHAPTER 91

Contempts

9792. Direct contempts defined.

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

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 affirmation. 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, 289 US1, 53SCR465.

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. 178M153, 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.*, 188M15, 246NW481. See Dun. Dig. 1702, 3548.

Publications tending to interfere with the administration of justice. 15MinnLawRev442.

(7). Evidence held not to warrant finding that defendant was guilty of constructive contempt in attempting to procure witnesses to testify falsely. *State v. Binder*, 190 M305, 251NW665. See Dun. Dig. 1705.

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. 173M 165, 216NW340.

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. 178M153, 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