

1938 Supplement
To
Mason's Minnesota Statutes
1927

(1927 to 1938)
(Superseding Mason's 1931, 1934, and 1936 Supplements)

Containing the text of the acts of the 1929, 1931, 1933, 1935, and 1937 General Sessions, and the 1933-34, 1935-36, 1936, and 1937 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.



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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.*, 182M596, 235NW386. See Dun. Dig. 4259(84).

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That widow as administratrix listed property in inventory as belonging to estate does not estop her from making claim that it was held in trust for her. *Id.*

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Effect of marriage on contract existing between husband and wife at time of marriage. 16MinnLawRev108.

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A farm may be owned and operated by wife, her husband functioning only as her agent. *Durgin v. S.*, 192M526, 257NW338. See Dun. Dig. 145, 4262.

In proceeding to recover for services rendered deceased by claimant, his daughter-in-law, pursuant to an alleged contract to pay her at his death, court erred in refusing to instruct jury that services of wife with respect to family household belong to husband; that he may waive his right to compensation therefor from another party and consent that wife receive same, provided there is no question of set-off or counterclaim against husband, but where such appears it must be shown that one to be charged with payment of compensation acquiesced in payment to wife. *Empenger v. E.*, 194M219, 259NW795. See Dun. Dig. 4261.

Where plaintiff's husband had lived apart from her for five years, during which time she had received no support from him, and she alone requested service of nurse, doctor, and hospital for which she alleged special damages, she is liable therefor and may recover from wrongdoer who necessitated her incurring the liability. *Paulos v. K.*, 195M603, 263NW913. See Dun. Dig. 4258.

Marital relation alone did not constitute wife agent of husband to surrender lease and make a new one for him. *Hildebrandt v. N.*, 199M124, 272NW257. See Dun. Dig. 4262a.

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.*, 182M126, 233NW805. See Dun. Dig. 5834b.

Wife who signed contract of sale of lot merely to bar her inchoate right of dower was not liable in action by purchaser to recover money paid because of fraud of seller. *McDermott v. R.*, 188M501, 247NW683. See Dun. Dig. 4270.

Service of an attorney for wife in divorce case amicably withdrawn was not a necessity for which husband was liable. *Melin v. R.*, 189M638, 249NW194. See Dun. Dig. 4276.

Husband is obligated to support wife and maintain family home whether wife has independent income or not. *Hill*, 33 U. S. Board of Tax Appeals 891.

Admission to tuberculosis sanatorium is not governed by rules applicable to settlement for poor relief purposes. *Op. Atty. Gen.* (556a-1), Dec. 29, 1936.

8621. Contracts between husband and wife.

Archer v. M., 183M306, 236NW455; note under §8618.

$\frac{1}{2}$. 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.*, 183M233, 236NW213. See Dun. Dig. 8612.

Evidence held to sustain verdict that deceased farmer, through his wife, agreed to pay daughter and son for work if they remained on farm. *Holland v. M.*, 189M172, 248NW750. See Dun. Dig. 3593g.

Farmer's wife had authority to employ persons doing housework as agent of her husband. *Id.* See Dun. Dig. 4286.

1. Contracts relating to realty.

Transaction whereby husband and wife executed a trust deed and put it in escrow to be delivered upon condition that wife be granted an absolute divorce did not violate the law. *First Minneapolis Trust Co. v. L.*, 185M121, 240NW459. See Dun. Dig. 4282(2).

Real estate may be conveyed from one spouse to the other through the medium of a third party. *Williams v. W.*, 192M438, 257NW1. See Dun. Dig. 4282.

An equitable mortgage cannot be created by law to secure advances made by wife to husband on faith of latter's parol promise to give security on his real estate. *Id.* See Dun. Dig. 4282, 6153.

One spouse may transfer his real estate and all his personal property to the other through a third person, if rights of creditors are not prejudiced. *Durgin v. S.*, 192M526, 257NW338. See Dun. Dig. 4258, 4282.

A transfer of a farm and all owner's personal property from husband to wife, having been found not fraudulent, considered absolute rather than mere security for indebtedness from husband to wife. *Id.* See Dun. Dig. 6154.

A separation agreement between husband and wife which in terms obligated each to join with other in execution of future conveyances or incumbrances of real property belonging to either, was illegal. *Simmer v. S.*, 195M1, 261NW481. See Dun. Dig. 4282.

Conveyance by one spouse to other spouse through medium of a third party is valid, but an executory agreement between spouses to make such a conveyance would be invalid. *Id.*

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.

If there was a contract between husband and wife whereby latter was bound to make agreed testamentary disposition of property left her by her husband, his will held of such nature that, coupled with other evidence of testator's intention, it was properly held that agreement between husband and wife had been abrogated, and that disposition made of his property by husband's will was intended to be absolute. *Hanefeld v. F.*, 191M547, 254NW821. See Dun. Dig. 10207.

3. Notice as to creditors—Burden of proof.

Transfers between husband and wife, whether made directly or indirectly, are prima facie fraudulent as to existing creditors: burden resting upon wife to show by clear and satisfactory evidence that a valuable consideration was paid by her or by some one in her behalf. *State Bank of New London v. S.*, 197M425, 267NW366. See Dun. Dig. 3907.

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.

8022-1. Power 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.*

8623. Antenuptial contracts.

Antenuptial agreements are valid. *Op. Atty. Gen.* (300), Nov. 23, 1934.

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A farm may be owned and operated by wife, her husband functioning only as her agent. *Durgin v. S.*, 192M 526, 257NW338. See Dun. Dig. 145, 4262.

In proceeding to recover for services rendered deceased by claimant, his daughter-in-law, pursuant to an alleged contract to pay her at his death, court erred in refusing to instruct jury that services of wife with respect to family household belong to husband; that he may waive his right to compensation therefor from another party and consent that wife receive same, provided there is no question of set-off or counterclaim against husband, but where such appears it must be shown that one to be charged with payment of compensation acquiesced in payment to wife. *Empenger v. E.*, 194M219, 259NW795. See Dun. Dig. 4261.

Where plaintiff's husband had lived apart from her for five years, during which time she had received no support from him, and she alone requested service of nurse, doctor, and hospital for which she alleged special damages, she is liable therefor and may recover from wrongdoer who necessitated her incurring the liability. *Faulos v. K.*, 195M603, 263NW913. See Dun. Dig. 4253.

Marital relation alone did not constitute wife agent of husband to surrender lease and make a new one for him. *Hildebrandt v. N.*, 199M124, 272NW257. See Dun. Dig. 4262a.

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.*, 182 M126, 233NW805. See Dun. Dig. 5834b.

Wife who signed contract of sale of lot merely to bar her inchoate right of dower was not liable in action by purchaser to recover money paid because of fraud of seller. *McDermott v. R.*, 188M501, 247NW683. See Dun. Dig. 4270.

Service of an attorney for wife in divorce case amicably withdrawn was not a necessity for which husband was liable. *Melin v. R.*, 189M638, 249NW194. See Dun. Dig. 4276.

Husband is obligated to support wife and maintain family home whether wife has independent income or not. *Hill*, 33 U. S. Board of Tax Appeals 891.

Admission to tuberculosis sanatorium is not governed by rules applicable to settlement for poor relief purposes. *Op. Atty. Gen.* (556a-1), Dec. 29, 1936.

8621. Contracts between husband and wife.

Archer v. M., 183M306, 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.*, 183M 233, 236NW213. See Dun. Dig. 8612.

Evidence held to sustain verdict that deceased farmer, through his wife, agreed to pay daughter and son for work if they remained on farm. *Holland v. M.*, 189 M172, 248NW750. See Dun. Dig. 3593g.

Farmer's wife had authority to employ persons doing housework as agent of her husband. *Id.* See Dun. Dig. 4286.

1. Contracts relating to realty.

Transaction whereby husband and wife executed a trust deed and put it in escrow to be delivered upon condition that wife be granted an absolute divorce did not violate the law. *First Minneapolis Trust Co. v. L.*, 185M121, 240NW459. See Dun. Dig. 4282 (2).

Real estate may be conveyed from one spouse to the other through the medium of a third party. *Williams v. W.*, 192M438, 257NW1. See Dun. Dig. 4282.

An equitable mortgage cannot be created by law to secure advances made by wife to husband on faith of latter's parol promise to give security on his real estate. *Id.* See Dun. Dig. 4282, 6153.

One spouse may transfer his real estate and all his personal property to the other through a third person, if rights of creditors are not prejudiced. *Durgin v. S.*, 192M526, 257NW338. See Dun. Dig. 4258, 4282.

A transfer of a farm and all owner's personal property from husband to wife, having been found not fraudulent, considered absolute rather than mere security for indebtedness from husband to wife. *Id.* See Dun. Dig. 6154.

A separation agreement between husband and wife which in terms obligated each to join with other in execution of future conveyances or incumbrances of real property belonging to either, was illegal. *Simmer v. S.*, 195M1, 261NW481. See Dun. Dig. 4282.

Conveyance by one spouse to other spouse through medium of a third party is valid, but an executory agreement between spouses to make such a conveyance would be invalid. *Id.*

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.

If there was a contract between husband and wife whereby latter was bound to make agreed testamentary disposition of property left her by her husband, his will held of such nature that, coupled with other evidence of testator's intention, it was properly held that agreement between husband and wife had been abrogated, and that disposition made of his property by husband's will was intended to be absolute. *Hanefeld v. F.*, 191M547, 254NW821. See Dun. Dig. 10207.

3. Notice as to creditors—Burden of proof.

Transfers between husband and wife, whether made directly or indirectly, are prima facie fraudulent as to existing creditors: burden resting upon wife to show by clear and satisfactory evidence that a valuable consideration was paid by her or by some one in her behalf. *State Bank of New London v. S.*, 197M425, 267NW366. See Dun. Dig. 3907.

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. Power 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.*

8623. Antenuptial contracts.

Antenuptial agreements are valid. *Op. Atty. Gen.* (300). Nov. 23, 1934.