

SEC. 4. All acts or parts of acts inconsistent with the provisions of this Act are hereby repealed.

SEC. 5. This Act shall take effect from and after its passage.

GEORGE BRADLEY,  
Speaker of the House of Representatives.  
WILLIAM HOLCOMBE,  
President of the Senate.

APPROVED—August eleven, one thousand eight hundred and fifty-eight.

HENRY H. SIBLEY.

SECRETARY'S OFFICE, Minnesota, }  
August 11, 1858.

I hereby certify the foregoing to be a true copy of the original on file in this office.

FRANCIS BAASEN, Secretary of State.

## CHAPTER LII

### *An Act Regulating the Recording of Conveyances affecting Real Estate.*

- SECTION 1. Record of conveyances to be made. Conveyances not recorded to be void against subsequent purchasers of the same real estate.
2. Record books to be provided for registering conveyances absolute in terms and such as are in nature of mortgages.
  3. Deeds of conveyance in absolute terms, given as mortgages, to be so considered. Explanatory writing to be recorded with deed.
  4. No record of conveyance to be made unless duly executed and acknowledged according to law.
  5. Duties of Registrars of Deeds, with reference to record of mortgages.
  6. Discharge of mortgage or conditional conveyance, to be recorded in full and reference made to record of mortgage.
  7. Register prohibited from recording any instrument affecting interest in real estate, unless it be duly signed and executed and acknowledged—liable to damages.
  8. The term "real estate" defined.
  9. The term "purchaser" defined.
  10. The term "conveyance" defined.
  11. Repeals all laws inconsistent.
  12. Act takes effect on passage.

*Be it enacted by the Legislature of the State of Minnesota :*

SECTION 1. Every conveyance by deed, mortgage or otherwise, of real estate within this State, hereafter made, shall

be recorded in the office of the Register of Deeds of the county where such real estate is situated; and every such conveyance not so recorded shall be void, as against any subsequent purchaser in good faith and for a valuable consideration of the same real estate, or any portion thereof, whose conveyance shall be first duly recorded, or as against any attachment levied thereon, or any judgment lawfully obtained at the suit of any party against the person in whose name the title to such land appears of record, prior to the recording of such conveyance.

Conveyance to be recorded—If not recorded void as against subsequent purchasers

SEC. 2. Different sets of books shall be provided by the Register of Deeds of the different counties, for the recording of deeds and mortgages; in one of which sets all conveyances absolute in their terms, and not intended as mortgages, or as securities in the nature of mortgages, shall be recorded; and in the other set, such mortgages and securities shall be recorded.

Absolute deeds and mortgages to be separately recorded

SEC. 3. Every deed conveying real estate, which by any other instrument in writing, shall appear to have been intended only as a security in the nature of a mortgage, though it be an absolute conveyance in terms, shall be considered as a mortgage; and the person for whose benefit such deed shall be made, shall not derive any advantage from the recording thereof, unless every writing, operating as a defeasance of the same, or explanatory of its being designed to have the effect only of a mortgage or conditioned deed, be also recorded therewith at the same time.

Conveyance absolute in terms—but conditional in intention—provision

SEC. 4. To entitle any conveyance, mortgage, powers of attorney or other instrument affecting real estate within this State hereafter made, to be recorded by any Register of Deeds, it shall be executed and acknowledged by the party or parties executing the same as required by law, and shall be recorded at large and in full, word for word, by the Register of Deeds, in the order, and as of the time when the same shall be delivered to the Register of Deeds for that purpose, and shall be considered as recorded from the time of said delivery.

Instruments for record to be duly signed &c

SEC. 5. The Register of Deeds shall make an entry in the record immediately after the copy of every conveyance recorded, specifying the time of the day, month and year, when the said conveyance, mortgage or other instrument was recorded, and shall endorse upon every conveyance, mortgage, or other instrument recorded by him, a certificate stating the time as aforesaid, and the book and page where the same was recorded, and shall record in alphabetical order, in his book of indexes, under the proper letter of the alphabet, the name of each grantor and grantee in any deed, mortgage or other writing left with him for record.

Recording—duty of register

SEC. 6. Any mortgage or conditional conveyance of real estate that has been recorded or that may hereafter be recorded, shall be discharged upon the record thereof by the Register

Discharge of mortgage or conditional conveyance

of Deeds, whenever there shall be presented to him a certificate signed by the mortgagee or grantee, his personal representatives or assigns, executed and acknowledged, as hereinbefore prescribed, to entitle conveyances, mortgages or other instruments to be recorded, specifying that such mortgage or conditioned conveyance has been paid, or otherwise satisfied or discharged. Every such certificate and the proof and acknowledgment thereof, shall be recorded at full length and a reference shall be made to the book and page containing such record, in the minute of the discharge of such mortgage or conditional conveyance made upon the record thereof, and shall endorse upon such certificate the time and place of recording the same as provided in Section five of this Act.

Instruments for record to be duly signed &c

SEC. 7. No Register of Deeds shall record any conveyance, mortgage or other instrument by which any interest in real estate is or may be in any way affected, unless the same shall have been duly signed and executed and acknowledged, according to law; and any such officer offending herein, shall be adjudged guilty of a misdemeanor, and on conviction, shall be subject to fine and imprisonment, and shall be liable in damages to the party injured, in a civil action.

Real estate defined

SEC. 8. The term "real estate," as used in this Act, shall be construed as co-extensive in meaning [with] "lands, tenements, and hereditaments," and as embracing all chattels real, excepting leases, for a term not exceeding three years.

Purchaser defined

SEC. 9. The term "purchaser," as used in this Act, shall be construed to embrace every person to whom any estate or interest in real estate shall be conveyed for a valuable consideration, and also every assignee of a mortgage or lease, or other conditional estate.

Conveyance defined

SEC. 10. The term "conveyance," as used in this Act, shall be construed to embrace every instrument in writing by which any estate or interest in real estate is created, alienated, mortgaged or assigned, or by which the title to any real estate may be affected in law or in equity, except last wills or testaments, and leases for a term not exceeding three years.

Repeal of acts inconsistent

SEC. 11. All laws and parts of laws inconsistent with the provisions of this Act, are hereby repealed.

SEC. 12. This Act shall take effect from and after its passage.

GEORGE BRADLEY,

Speaker of the House of Representatives.

WILLIAM HOLCOMBE,

President of the Senate.

APPROVED—August the third, one thousand eight hundred and fifty-eight. HENRY H. SIBLEY.

SECRETARY'S OFFICE, Minnesota, }  
August 3, 1858. }

I hereby certify the foregoing to be a true copy of the original on file in this office.

FRANCIS BAASEN, Secretary of State.