

89022

GENERAL STATUTES OF
MINNESOTA

SUPPLEMENT 1917

CONTAINING THE AMENDMENTS TO THE GENERAL STATUTES
AND OTHER LAWS OF A GENERAL AND PERMANENT
NATURE, ENACTED BY THE LEGISLATURE
IN 1915, 1916, AND 1917

WITH NOTES OF ALL APPLICABLE DECISIONS

COMPILED BY

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1918

wife to the grant by the husband of a right of way over the homestead (133-128, 157+1089). Homestead, [§118\(5\)](#).

A deed granting a perpetual right of way over a homestead is an "alienation," and is invalid, unless signed by both husband and wife (129-288, 152+648, Ann. Cas. 1916E, 1130). Homestead, [§118\(3\)](#).

Reformation of deed conveying homestead—A conveyance of the homestead, or a portion thereof, executed by both husband and wife, as required by this section, may be reformed by correcting a misdescription of the property intended to be conveyed thereby (129-288, 152+648, Ann. Cas. 1916E, 1130). Reformation of Instruments, [§13\(3\)](#).

Evidence examined, and held sufficient to sustain a finding that both husband and wife agreed to grant a right of way through the homestead, and that it was omitted from the deed by mutual mistake, so that reformation would be decreed (129-288, 152+648, Ann. Cas. 1916E, 1130). Reformation of Instruments, [§15\(4\)](#).

6963. Sale or removal permitted—Notice—

206 Fed. 877, 124 C. C. A. 537.

CHAPTER 67

CHATTEL MORTGAGES AND CONDITIONAL SALES

CHATTEL MORTGAGES

6966. Mortgages, when void—

A chattel mortgage by a son to his father of 2,500 bushels of a growing crop of corn estimated to produce 3,000 bushels, accompanied by an understanding that the son might continue for a time to feed a small amount of stock, was not void as matter of law; it not appearing that the feeding of the stock would impair the security (130-141, 153+125). Chattel Mortgages, [§188\(1\)](#).

A chattel mortgage held not fraudulent as to creditors, though it was agreed between the parties that a part of the property included in the mortgage might be used to feed animals, also included in the mortgage, and that the mortgagor might use sufficient of the property for his living, since the property so needed is exempt (133-375, 153+612). Chattel Mortgages, [§191](#).

6967. Where filed—

Applicable only in cities of first class and counties where the salary of the register of deeds is fixed by special law—See §§ [6993-]1 to [6993-]7.

Cited (130-256, 153+324; 130-256, 153+593).

[6967-]1. **Defective chattel mortgages—Curative**—That in all cases where chattel mortgages have heretofore been executed between the first day of January, 1911, and the first day of January, 1914, which were attested by only one subscribing witness, and have been actually filed with the register of deeds of the proper county, and in all cases where such chattel mortgages have heretofore been actually filed in the office of the clerk or recorder of the proper town or municipality, all such chattel mortgages and the filing thereof are hereby legalized and confirmed. All of such instruments so filed shall in all respects have the same force and effect as they would have if such original instrument at the time they were so filed had been duly attested by two subscribing witnesses, and duly certified copies thereof may be read in evidence in any court in this state with the same effect as the original.

Provided, that nothing in this act shall be held to apply to any action heretofore commenced or now pending in any court in this state; nor in any manner apply to any one in good faith acquiring any interest in any property included in any such mortgage subsequent to the delivery of such mortgage, and prior to the taking effect of this act. ('15 c. 308 § 1)

6973. Foreclosure, when and where made—

A junior mortgagee may bring an action in equity to foreclose, where the first mortgagee is in possession, but he must redeem or show that there will be a surplus after satisfying the first mortgage (122-283, 142+195). Chattel Mortgages, [§271](#).

CONDITIONAL SALES

What constitutes conditional sale (see 129-198, 151+971). Sales, Ⓒ450, 457.

**FILING CHATTEL MORTGAGES, BILLS OF SALE OF CHATTELS,
AND CONDITIONAL SALE CONTRACTS EXCEPT IN
CITIES OF FIRST CLASS**

6985-6988. [Superseded.]

See §§ [6993—]1 to [6993—]7.

6985—Cited (162+468).

What constitutes conditional sale (see 129-198, 151+971). Sales, Ⓒ450, 457.

6990-6993. [Superseded.]

See §§ [6993—]1 to [6993—]7.

[6993—]1. **Instruments to be filed with register of deeds**—Any bill of sale, instrument evidencing a lien on or reserving title to personal property and satisfactions of liens on personal property, shall be filed with the Register of Deeds in the county in which the said personal property is situate. ('15 c. 364 § 1, amended '17 c. 158 § 1)

1915 c. 364 § 8 repeals inconsistent acts, etc. 1917 c. 158 § 2 repeals inconsistent acts, etc.

[6993—]2. **Same—Duty of register—Fees, etc.**—Every register of deeds on and after July 1st, 1915, shall receive and file any such instrument, which shall be executed, witnessed, and acknowledged according to law, or a true copy thereof and shall immediately number and index the same, and certify on each instrument the exact time of receipt, which certificate shall be prima facie evidence of the facts stated therein. No such instrument shall be removed from the office where filed until cancelled, released, or satisfied. The fees for filing such instruments shall be twenty-five cents for each instrument and twenty-five cents for a certified copy thereof, when copy is furnished, said amount to be paid to the register of deeds at the time of filing, and such fee shall be retained by the register of deeds, as additional salary and compensation for filing such instruments. ('15 c. 364 § 2)

[6993—]3. **Same—Index book**—Every register of deeds shall keep in his office an index book in which he shall enter the number given to every such instrument, the names in alphabetical order of the lien debtor and lien creditor and vendee and vendor, and the exact time of filing the instrument. He shall also enter the sum for which a lien is claimed and the satisfaction of the same when made. ('15 c. 364 § 3)

[6993—]4. **Same—Clerk or recorder to deliver documents to register**—Each municipal clerk or recorder shall, on the first day of July, 1915, deliver all instruments evidencing liens on or reserving title to personal property, then on file with him, and all records of the same in his custody, to the register of deeds of his county, and said register of deeds shall thereafter be the custodian of the same, and of the records thereof, and no new filing, indexing, or record thereof need be made by said register of deeds. ('15 c. 364 § 4)

[6993—]5. **Same—Register to receive, etc.—Notice—Expenses**—Each municipal clerk or recorder shall be paid out of the treasury of his county, the sum of ten cents per mile in traveling from his place of business to and returning from the county seat of his county, for delivering said instruments and records to the register of deeds of his county. The register of deeds of each county shall receive the said instruments and records as delivered to him by the several municipal clerks and recorders of his county and safely keep and preserve the same in his office, and endorse on each instrument and record book the date of the receipt of the same by him, and thereafter said instruments and records shall be notice to all persons of the existence and terms thereof. ('15 c. 364 § 5)

[6993—]6. **Same—Fees for receiving documents transferred**—For receiving, keeping and preserving, and endorsing all of said instruments and records transferred to him as aforesaid, there shall be paid to the register of deeds

out of the treasury of his county, a fee according to the population of his county as shown by the 1910 national census of the United States of America, which fee shall be as follows:

In counties having a population of 50,000 or less, \$10.00.

In counties having a population exceeding 50,000 and not more than 100,000, a fee of \$25.00.

In counties having a population exceeding 100,000 and not more than 150,000, a fee of \$50.00.

In counties having a population exceeding 150,000 and not more than 200,000, a fee of \$100.00.

In counties having a population exceeding 200,000 and not more than 300,000, a fee of \$125.00.

In counties having a population exceeding 300,000 a fee of \$200.00. ('15 c. 364 § 6)

[6993—]7. Same—Not applicable to certain cities and counties—This act shall not apply to cities of the first class, nor to counties wherein the salary of the register of deeds is fixed by special law. ('15 c. 364 § 7)

SEED GRAIN CONTRACTS

6995. Filing.—Duration of lien.—To preserve said lien, the person furnishing seed as aforesaid, within thirty days after the execution of such note or contract, shall file the same, or a copy thereof, with the register of deeds of the county in which the land upon which the crop is to be grown is situated. Thereupon the lien shall continue for the term of one year from the date of filing, upon the crop growing or grown from such seed, to the amount and according to the terms of the agreement, against the owner and all creditors and purchasers. It shall not be affected by any exemption law, and shall take precedence of all other liens and be notice of its existence to all persons. (Amended '15 c. 191 § 1)

CHAPTER 68

FRAUDS

STATUTE OF FRAUDS

6998. No action on agreement, when—

In general—No distinction should be made in the interpretation of this section and § 6999, because one reads "no action shall be maintained," and the other "every contract * * * shall be void," unless evidenced by writing, etc. (162+1082). Frauds, Statute of, ☞121.

The statute is not a mere rule of evidence, but precludes the substantive right of action upon the oral contract (128-468, 151+195). Frauds, Statute of, ☞125(1).

Subd. 1—128-468, 151+195; note under § 7003.

An oral contract of partnership, actually performed within a year, is not within the statute (129-252, 152+538). Frauds, Statute of, ☞139(1).

A contract attached to a certificate of stock, reciting the purchase of the stock and the payment of the price, and stipulating that the vendors agree to pay a percentage of the price annually for five years, sufficiently expresses the consideration on the face of the agreement, and is not invalid under the first subdivision of this section (135-235, 160+765). Frauds, Statute of, ☞108(1).

Subd. 2—Where defendant in a personal injury case effected a settlement by agreeing to pay plaintiff a specified amount, and another amount to the physician who treated plaintiff, the promise to pay the physician was an original undertaking, and not within this section (126-251, 148+104). Frauds, Statute of, ☞33(1).

An agreement by a purchaser to pay a debt of the seller as part of the price is not invalid under the statute because no consideration is expressed therein (128-490, 151+203). Frauds, Statute of, ☞18(3).

A contract attached to and delivered with a certificate of stock, reciting the purchase of the stock and the payment of the price, and stipulating that the vendors agree to pay a percentage of the price annually for five years, sufficiently expresses the consideration on the face