

THE 79
GENERAL STATUTES

OF THE
STATE OF MINNESOTA

As Amended by Subsequent Legislation, with which are Incorporated
All General Laws of the State in Force December 31, 1894

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THE ORGANIC ACT, ACT AUTHORIZING A STATE GOVERNMENT, THE STATE
CONSTITUTION, THE ACT OF ADMISSION INTO THE UNION, AND

Sections 1 to 4821 of the General Statutes

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CHAPTER 29.

TOWN PLATS.

§ 2303. Town or addition to be platted.

When any person wishes to lay out a town or an addition or subdivision of out-lots, he shall cause the same to be surveyed, and a plat thereof made, which shall particularly describe and set forth all the streets, alleys, commons or public grounds, and all in and out-lots or fractional lots within, adjoining, or adjacent to said town, giving the names, width, courses, boundaries and extent of all such streets and alleys.

(G. S. 1866, c. 29, § 1; G. S. 1878, c. 29, § 1.)

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§ 2304. Plat, what to show.

All the in-lots shall be numbered in progressive numbers, or by the squares in which they are situated, and their precise length and width stated on said plat; and out-lots shall not exceed ten acres in size, and shall in like manner be surveyed and numbered, and their precise length and width stated on the plat, together with any streets, alleys or roads which divide or border the same.

(G. S. 1866, c. 29, § 2; G. S. 1878, c. 29, § 2.)

§ 2305. Monuments to be fixed at certain corners.

The proprietor of the town, addition or subdivision of out-lots shall, at the time of surveying and laying [out] the same, plant and fix at a corner of the ground, or at the corner of a public lot, if there is any, and if none, then at the corner of some one of the in-lots in the town, and at the corner of each out-lot, a good and sufficient stone, of such size and dimensions, and in such manner as the surveyor directs, for a corner from which to make further surveys; and the point where the same may be found shall be designated on the plat.

(G. S. 1866, c. 29, § 3; G. S. 1878, c. 29, § 3.)

§ 2306. Plat to be certified and recorded.

The plat, after being completed, shall be certified by the surveyor; and the officers, and every person whose duty it is to comply with the foregoing requisitions, shall, at or before the time of offering such plat for record, acknowledge the same before some person authorized to take acknowledgment of deeds. A certificate of such acknowledgment shall, by the officer taking the same, be indorsed on the plat, which certificate of the survey and acknowledgment shall also be recorded and form a part of the record: provided, that whenever any part of the lands embraced in such plat are within the limits of any incorporated city, the plat shall not be so recorded until the plat shall have been approved by the common council of such city, and a certificate of such approval put thereon by the clerk of such common council, which certificate shall also be recorded, and form a part of the record of such plat.

(G. S. 1866, c. 29, § 4; as amended 1871, c. 39, § 1; G. S. 1878, c. 29, § 4.)

A town plat is not entitled to record, and will not operate as a statutory dedication without being acknowledged. City of Winona v. Huff, 11 Minn. 119, (Gil. 75.)

As to the sufficiency of the certificate, see Baker v. City of St. Paul, 8 Minn. 491, (Gil. 436.)

The plat referred to in a deed may be used to identify the land, though it does not conform to the statute, and is not recorded. Sanborn v. Mueller, 38 Minn. 27, 35 N. W. Rep. 666; Borer v. Lange, 44 Minn. 281, 46 N. W. Rep. 358.

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§ 2307. Plat to have certificate of county surveyor, when.

Before any plat hereafter made of a town-site, division thereof or addition thereto can be recorded in the office of the register of deeds of any county in this state, it shall have attached thereto a certificate of county surveyor, certifying that the monuments for the guidance of future surveys, as shown on

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the plat, have been correctly placed; that the boundary lines of the land platted are correctly shown on the plat, and that the sizes of all fractional lots are as given on the plat; Provided, that this shall not apply to plats of property within the corporate limits of cities having a duly constituted officer or officers, with jurisdiction over said plats for the purposes above mentioned; nor to the recording of plats for the incorporation of cities or villages. It shall be the duty of the county surveyor, upon request of any person or persons desiring to record a plat, to make all surveys necessary to determine the accuracy of said plat with all possible dispatch, either personally or by his duly appointed deputy; and if the survey of the plat be found incorrect, he shall notify the persons requesting his certificate of such errors, and shall not attach his certificate to said plat until satisfied that all errors have been corrected. The county surveyor shall receive for his services, or those of his deputy, in such cases, the sum of four dollars per day for each day occupied upon the work, including time spent in traveling to and from the work, with pay for necessary assistants, and all traveling expenses.

(1889, c. 56, § 1.)

The city of Duluth "having a duly-constituted officer" within the proviso of this section, the general law does not apply to plats within the city limits. *Rice v. Highland Imp. Co.* (Minn.) 57 N. W. Rep. 452.

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§ 2308. Effect of execution and record of plat.

When the plat is made out, certified, acknowledged and recorded as required by this chapter, every donation or grant to the public or any individual, religious society, or to any corporation or body politic, marked or noted as such on said plat, shall be deemed in law and equity a sufficient conveyance to vest the fee simple of all such parcels of land as are therein expressed, and shall be considered, to all intents and purposes, a general warranty against such donors, their heirs or representatives, to said donees or grantees, for their use, for the uses and purposes therein named, expressed and intended, and no other use or purpose whatever; and the land intended to be for the streets, alleys, ways, commons, or other public uses in any town or city, or addition thereto, shall be held in the corporate name thereof, in trust for the uses and purposes set forth and expressed or intended.

(G. S. 1866, c. 29, § 5; G. S. 1878, c. 29, § 5.)

A right to have lands entered as a town-site, under the act of congress, may be lost by abandonment of the occupancy, so that other persons may enter upon and occupy them, and become entitled to have them entered as a town-site for their benefit; and this is the case even where the prior occupants made and recorded a town plat of the lands. *Weisberger v. Tenny*, 8 Minn. 456, (Gil. 405.)

Where an owner of lands plats the same as a town, under the statute, the fee of the lands intended for streets or landings does not pass, but only such estate or interest vests in the corporate authorities as the purposes of the trust require. *Schurmeier v. St. Paul, etc., R. Co.*, 10 Minn. 82, (Gil. 59.)

Where there is a discrepancy between a town plat and the certificate attached to it as to the block intended for a public square the block which the entire plat shows to have been intended will prevail over that indicated in the certificate. *City of Winona v. Huff*, 11 Minn. 119, 120, 131, 135, (Gil. 75.)

Where a town plat of lands, entered as a town-site under the act of congress, has been executed and recorded, dedicating lands to public use, the plat operates as a conveyance to the public, and no deed from the trustee is necessary. If the trustee convey the fee to a third party it is subject to the dedication. *Id.*

Where land is dedicated by town plat for public squares, streets, or levees, the corporate authorities may maintain ejectionment for it. *Id.*

Upon the question of dedication, where town plats have been introduced, it is not error to refuse to charge "that the surveying, platting, and recording towns presupposes ownership in the persons, and the title must be in them perfected." *Village of Mankato v. Meagher*, 17 Minn. 265, (Gil. 243.)

Where several persons, owning different lands in severalty, join in making a town plat of them, no one of such owners acquires by the plat alone any easement or right of way, distinct from that granted to the public, in that part of the public streets marked on the plat, over lands of the other owners. *Patterson v. City of Duluth*, 21 Minn. 493.

Plat of Minneapolis does not dedicate block 62 to the county. *Commissioners of Hennepin Co. v. Dayton*, 17 Minn. 260. (Gil. 237.)

¹An act to insure the accuracy of town plats. Approved March 7, 1889.

Plat of town of Pepin does not effect the dedication of any land to public use. *Downer v. St. Paul, etc., Ry. Co.*, 22 Minn. 251.

See *Carson v. Smith*, 12 Minn. 546, (Gil. 458.)

Where land is surveyed into lots, blocks, and streets, the effect of a conveyance according to such survey is to dedicate the streets to public use, independently of any statutory dedication. *Borer v. Lange*, 44 Minn. 281, 46 N. W. Rep. 338.

On the plat was left a strip of land on which were the words, "Reserved for right of way. Line S. M. R. R." Held not a donation to the railroad company. *Watson v. Chicago, M. & St. P. Ry. Co.*, 46 Minn. 321, 48 N. W. Rep. 1129.

See *Middleton v. Wharton*, 41 Minn. 266, 43 N. W. Rep. 4; *Village of Buffalo v. Harling*, 50 Minn. 551, 52 N. W. Rep. 931.

§ 2309. Where recorded.

If the county in which said town or addition is situated is not organized, the plat shall be recorded in the register's office of that county to which the county in which said town is situated is attached for judicial purposes.

(G. S. 1866, c. 29, § 6; G. S. 1878, c. 29, § 6.)

§ 2310. Powers of county commissioners in certain cases.

When any town, addition, or subdivision of out-lots has been heretofore laid out, and lots sold, either by county agents, commissioners or other persons, and a plat of the same has not been acknowledged and recorded in conformity to the acts heretofore in force, the present county commissioners or a majority of them in such county, or other persons or proprietors who have laid out the same, or their legal representatives, shall have the same fairly, fully and clearly made out, certified and acknowledged, and recorded in the proper county, in the form and manner required by this chapter; noticing and particularly describing the donation of lands, or otherwise, to individuals, societies, bodies politic, or for common or public purposes: provided, that if the lots have been differently numbered and sales made, and they can not well be changed, they shall be returned as originally stated; but in all other respects the plat shall conform to the requisitions of this chapter.

(G. S. 1866, c. 29, § 7; G. S. 1878, c. 29, § 7.)

§ 2311. Fees of surveyors and registers.

The surveyors who lay out, survey and plat any town or addition thereto shall receive twenty-five cents for each and every in and out-lot the same may contain, unless otherwise agreed; and every register of deeds recording the same shall receive the sum of five cents for each and every lot as aforesaid; the plat and survey to be by him transcribed and copied into a book, or upon suitable paper, to be formed into an unbound volume with covers for careful preservation, to be provided by the county commissioners for that purpose: provided, that the original of said plat and survey may be incorporated in said volume, and shall in all respects form the true record of the same, in which case the register shall receive the sum of two cents for each and every lot as aforesaid.

(G. S. 1866, c. 29, § 8; G. S. 1878, c. 29, § 8.)

§ 2312. Penalty for selling lots, etc.

If any person disposes of, offers for sale, or leases for any time, any out or in-lot, in any town or addition to any town or city, or any part thereof, before all the foregoing requisitions of this chapter are complied with, every person so offending shall forfeit and pay the sum of twenty-five dollars for each and every lot or part of a lot sold or disposed of, leased or offered for sale.

(G. S. 1866, c. 29, § 9; G. S. 1878, c. 29, § 9.)

This section does not avoid sales or contracts for sale, though the statutory requirements have not been complied with. *De Mers v. Daniels*, 39 Minn. 158, 39 N. W. Rep. 98.

§ 2313. Penalties on county officers.

If any county officer or other person, whose duty it is to comply with any of the requisitions of this chapter, neglect or refuse so to do, they shall each forfeit and pay a sum of not less than ten, nor more than one hundred dollars, for each and every month they delay a compliance.

(G. S. 1866, c. 29, § 10; G. S. 1878, c. 29, § 10.)

§ 2314. Forfeitures, how collected.

All forfeitures and liabilities which are incurred or arise under this chapter shall be prosecuted and recovered in the name of the county treasurer; and any officer paying over any money to the said treasurer, received under any of the provisions of this chapter, shall take his receipt therefor, and forthwith file the said receipt with the clerk of the board of county commissioners, and the said clerk shall charge the amount of said receipt in account against said treasurer, on the books of the county commissioners.

(G. S. 1866, c. 29, § 11; G. S. 1878, c. 29, § 11.)

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§ 2315. Alteration and vacation of towns and additions.

The district courts are authorized and empowered, upon application made by one or more of the proprietors of any city or town, or of any addition to any city or town, or of any part of any city or town or addition thereto, within this district, to alter or vacate the same, or any part thereof, including streets and public squares, and to adjudge and declare the title to such streets, alleys and public squares in such persons as are entitled to the same.

(G. S. 1866, c. 29, § 12, as amended 1869, c. 31, § 1; G. S. 1878, c. 29, § 12.)

Action to reform the numbering of lots in a recorded town plat sustained. *Rice v. Kelsel*, 42 Minn. 511, 44 N. W. Rep. 535.

See *Weisberger v. Tenny*, 8 Minn. 456, (Gil. 405.)

§ 2316. Notice of application to be posted.

If such proprietor is desirous of obtaining such vacation, he shall post notices in writing of such intended application, in at least two of the most public places in the county in which such city, or town, or addition is situated, and insert a copy thereof in a newspaper printed or in circulation in said county, at least thirty days prior to the sitting of the court to which he intends to make such application.

(G. S. 1866, c. 29, § 13; G. S. 1878, c. 29, § 13.)

§ 2317. Proceedings on hearing.

If such proprietor produces to said court satisfactory evidence that the notice required by the preceding section has been given, the court shall proceed to hear and determine said petition, and may alter and vacate said city or town or additions, or any part thereof, and order its proceedings to be recorded by the clerk in the records of said court, and in the office of the register of deeds of the county in which said city, town or addition is situated. But no street or alley, or any part thereof, shall be vacated between blocks or lots, or which connect two parts of the city, town or addition, except such blocks or lots, or one part of the city, town or addition so connected, is also vacated, unless, however, it appears to the satisfaction of the court that such street or alley, or part thereof sought to be vacated is useless for the purpose for which the same was laid out or dedicated: provided, that if, upon the hearing of said application, any objection is made by any person owning or occupying contiguous land, and whose interest will be injuriously affected by such proposed vacation, the court shall hear him and give judgment as seems right and proper: provided further, that whenever, in the judgment of the court, the parties resisting such vacation or alteration will sustain, by the same, damages greater than the benefits resulting therefrom, the court is empowered to assess the said damages, or cause the same to be assessed, and require the payment of the same by the parties making such application, before the said vacation or alteration shall take effect.

(G. S. 1866, c. 29, § 14; G. S. 1878, c. 29, § 14.)

§ 2318. Defective plats—Legalization.

All plats, or purporting to be, of additions and subdivisions thereof, to any town or city in this state, or copies thereof, now on file in any register of deed's office in this state, which fail in any respect to comply with the law in force at the time of their making, execution, certification, or recording, with regard to either the making, execution, certification, or recording thereof, or any or all of said matters, are hereby legalized and confirmed, to the same ex-

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tent and with the same effect as if the same had been in all respects properly made, executed, certified, and filed.

(1881, Ex. S. c. 57, § 1; ² G. S. 1878, v. 2, c. 29, § 15.)

See *De Mers v. Daniels*, 39 Minn. 158, 161, 39 N. W. Rep. 98.

§ 2319. Defective description — Surveyor's certificate — Evidence.

In all cases where said plats or copies, or any of them, fail to identify or show upon their face the tract of land covered or intended to be covered thereby, the surveyors, or one of them, who laid out or surveyed the same, may, within one year from the passage of this act, make and file in the register's office of the proper county a certificate duly executed and acknowledged by him, as deeds are to be executed and acknowledged, wherein he shall set forth at length a full description of the real estate covered by the plat so made by him; which certificate, so executed, shall be filed, and thereafter remain on file, in said register's office, and shall by said register be recorded at length in a book to be by him provided for that purpose, entitled "Book of Plat Certificates." And said register shall thereupon note upon the plat and copy thereof so filed in his office, and referred to in such certificate, the fact of filing such certificate, and the book and page where the same is recorded. And said certificate, or the record thereof, shall, together with such plat, be *prima facie* evidence in all cases of the real estate covered by said plat, to the same extent as if originally indorsed thereon. And said register shall receive the same fees as now by law provided for filing and recording such certificate, to be paid by the person offering the same for record.

(1881, Ex. S. c. 57, § 2; G. S. 1878, v. 2, c. 29, § 16.)

§ 2320. Same—Proprietor's certificate—Effect.

In all cases where the surveyor above referred to shall have died, or his place of abode be unknown, or he unable for any reason, or refuse, to make and execute said certificate, the same may be so made by any one or more of the proprietors who has signed any such plat; which certificate, so made by such proprietor, shall be sworn to by him as correct in all respects, and shall thereupon, together with such affidavit made thereon, be filed and recorded as above provided, with like effect in all respects.

(1881, Ex. S. c. 57, § 3; G. S. 1878, v. 2, c. 29, § 17.)

§ 2321. Same—Petition to court—Procedure—Judgment.

In case the surveyor or proprietor above referred to, for any reason fails or neglects to certify to such plat, as above provided, or such certificate be not recorded and filed within three months after the passage of this act, it shall thereupon be lawful for any person, being the owner of or claiming any interest in any lot or tract of land included in, described or intended to be described in, or covered by any such plat, to apply to the district court of any county wherein said plat is filed, at any general or special term thereof, by petition in writing, duly verified as a complaint in a civil action, to have established by the judgment of said court the real estate covered or intended to be covered by said plat. Such petition shall set forth the lot or tract claimed by such petitioner, the name of the plat to be corrected or affected, and a full description of the real estate claimed to be covered or to have been intended to be covered by such plat. Said court shall thereupon have jurisdiction of such proceeding, and shall thereupon make and enter an order therein, directing notice of the pendency thereof to be given to all persons having or claim-

²An act in relation to plats of additions, or subdivisions thereof, to any town or city now on file in any register of deeds' office in this state, or copies thereof, so on file, to legalize the same as if properly made, executed, certified to, and recorded; to provide for the identification of the real estate covered thereby, and to give effect to the same, together with such identification of the real estate covered thereby, as evidence. Approved November 18, 1881.

ing any estate, interest, or lien in or to the land mentioned in such petition, or covered or intended to be covered by the plat therein named, by publication of a certified copy of such order in a newspaper printed and published in said city, and named therein, for not less than six successive weeks, at least once in each week. Such order and notice shall set forth the filing of such petition, the name of the applicant, a description of the real estate by him claimed to be covered by such plat, the name of such plat, and the time and place of hearing of such petition, which shall not be less than twenty days after the last day of publication of such notice, and shall be at a general or special term of such court. Proof of the publication of such order and notice shall be made by the printer or publisher of such newspaper, as in cases of foreclosure of mortgages by advertisement, and filed in said court. And said publication shall be deemed and taken to be a personal service upon all persons having or claiming any right, title, estate, interest, or lien in or to the said real estate, or any part thereof. Any person having or claiming an interest in any lot or tract within the real estate so described, or in said real estate, or in the real estate covered by said plat, as claimed by him, may at any time before the hearing appear in said court, in person or by attorney, and file therein, in writing, objections to the granting of such petition, in whole or in part, and may further affirmatively set up a full description of the real estate claimed by said objector to be covered by said plat. And said court shall thereupon proceed to hear and determine the matter in the same manner, as nearly as may be, as in suits in equity in said court, and give judgment as the facts may appear. A certified copy of such judgment shall thereupon be filed and recorded in said register's office, as above provided for said certificate, with like force and effect in all respects. The said court shall have full power and control over such proceeding, and shall direct the course of practice therein, and may in its discretion award and apportion costs and disbursements therein as it shall see fit.

(1881, Ex. S. c. 57, § 4; G. S. 1878, v. 2, c. 29, § 18.)

§ 2322. Legalized plats—Effect as evidence.

Such plat or plats and copies thereof, together with such certificate, affidavit, or judgment pertaining thereto, or record thereof, or certified copies thereof, shall thereupon be received in evidence in all cases, with the same force and effect in all respects as if the same had particularly described thereon the real estate covered thereby, and complied in each particular with the law in force at the time of the making and filing thereof.

(1881, Ex. S. c. 57, § 5; G. S. 1878, v. 2, c. 29, § 19.)

§ 2323. Defective plats, how cured.

In all cases where the plats, or what purport to be the plats, of any towns or cities in this state, or of additions to or subdivisions thereof, or copies thereof, fail to identify and show upon their face the tract of land covered, or intended to be covered thereby, the surveyor or surveyors, or any one of them, who laid out or surveyed the same, and, in case said surveyor or surveyors shall have died, or his or their place of abode be unknown, or he or they be unable or refuse to make and execute such certificate, one or more of the proprietors who has signed said plat may, within one year from the passage of this act, make and file in the office of the register of deeds of the county in which said lands are situate a certificate duly executed and acknowledged by him or them as deeds are to be executed and acknowledged, wherein shall be set forth a full description of the real estate covered and intended to be covered by said plat. If such certificate be made by a proprietor or by proprietors of such town or city, addition or subdivision, the same shall also be sworn to by him or them as being correct in all respects; and such certificate, so executed and acknowledged and verified, shall be recorded at length by said register of deeds in a book, to be by him provided for that purpose, en-

titled "Book of Plat Certificates;" and said register of deeds shall thereupon note upon such plat and the copy thereof filed in his office as aforesaid, and referred to in such certificate and affidavit, the fact of filing such certificate, and the book and page where recorded, and he shall receive, from the person offering said certificate for record, the fees provided by law for similar services; and said certificate or the record thereof shall, together with such plat, be *prima facie* evidence in all cases as to the real estate covered by said plat, to the same extent as if the description thereof was originally indorsed on said plat.

(1885, c. 264; ³ G. S. 1878, v. 2, c. 29, § 20.)

See *De Mers v. Daniels*, 39 Minn. 158, 161, 39 N. W. Rep. 98.

§ 2324. Same.

That in all cases where the plats, or what purport to be plats, of any towns or cities in this state, or of additions to or subdivisions thereof, or copies thereof, fail to identify and show correctly, upon their face, the tract of land covered or intended to be covered thereby, the surveyors, or one of them, who laid out or surveyed the same, and, in case said surveyor or surveyors shall have died, or his or their place of abode be unknown, or he or they be unable or refuse to make or execute such certificate, one of the original proprietors may within one year from the passage of this act make and file in the office of the register of deeds of the county in which said lands are situate a certificate duly executed and acknowledged by him or them, as deeds are to be executed and acknowledged, wherein shall be set forth a full description of the lands actually covered and intended to be covered by said plat. If such certificate be made by a proprietor or proprietors of such town, city, addition, or subdivision, the same shall also be sworn to by him or them as being correct in all respects; and such certificate so executed, acknowledged, and verified, shall be recorded at length by said register of deeds in a book by him provided for that purpose, entitled "Book of Plat Certificates;" and said register of deeds shall thereupon note upon such plat and the copy thereof filed in his office as aforesaid, and referred to in such certificate and affidavit, the fact of filing such certificate and the book and page where recorded; and he shall receive from the person offering said certificate for record the fees provided by law for similar services; and such certificate, or the record thereof, shall, together with such plat, be *prima facie* evidence in all cases as to the lands covered by said plat.

(1887, c. 167; ⁴ G. S. 1878, v. 2, c. 29, § 21.)

See *De Mers v. Daniels*, 39 Minn. 158, 161, 39 N. W. Rep. 98.

§ 2325. Same.

That in all cases where the plats or what purport to be plats of any towns or cities in this state, or of additions to or subdivisions thereof, or copies thereof, fail to identify and show correctly, upon their face, the tract of land covered or intended to be covered thereby, the surveyors, or one of them, who laid out or surveyed the same, and, in case said surveyor or surveyors shall have died, or his or their place of abode be unknown, or he or they be unable or refuse to make or execute such certificate, one or more of the original proprietors may, within one year from the passage of this act, make and file in the office of the register of deeds of the county in which said lands are situated, a certificate duly executed and acknowledged by him or them, as deeds are to be executed or acknowledged, wherein shall be set forth a full description of the lands actually covered and intended to be covered by said plat. If such certificate be made by a proprietor or proprietors of such town,

³An act relative to plats of towns and cities in this state, and of additions to and subdivisions thereof, and the correction and legalization of the same. Approved February 27, 1885.

⁴An act relative to plats of towns and cities in this state, and of additions to and subdivisions thereof, and the correction and legalization of the same. Approved March 7, 1887.

city, addition or subdivision, the same shall also be sworn to by him or them as being correct in all respects. And such certificates, so executed, acknowledged and verified, shall be recorded at length by said register of deeds in a book by him provided for that purpose, entitled, "Book of plat certificates;" and said register of deeds shall, thereupon, note upon such plat and the copy thereof, filed in his office as aforesaid and referred to in such certificate and affidavit, the fact of filing such certificate, and the book and page where recorded; and he shall receive from the person offering said certificate for record the fees provided by law for similar services. And such certificate or the record thereof shall, together with such plat, be prima facie evidence, in all cases, as to lands covered by said plat.

(1891, c. 25, § 1.5)

§ 2326. Plats on record legalized.

That all and any plats of any kind or nature of lands subdivided and filed for record with the several registers of deeds for the counties in this state in which their offices are located, are hereby declared to be legal and valid and shall be sufficient to plat, subdivide and locate the ground appearing thereon or described in the statements or endorsements thereon, notwithstanding the requirements of the law now in force affecting the platting of lands in this state have not been fully complied with.

(1889, c. 55, § 1.6)

§ 2327. Lost or destroyed plats—Copy may be filed, when.

That in all cases where plats of any town or city in this state, or of additions thereto or subdivisions thereof, previously on file in the office of the register of deeds of any county in which the land thereby covered is situated have been lost or destroyed, and a copy of such plat is in existence, the surveyor or surveyors, or one of them, who laid out and surveyed the tract covered by such original plat, and if such surveyor or surveyors shall have died or his or their place of abode be unknown, which facts may be proven by the affidavit of one of the original proprietors of such land, one or more of the proprietors who executed said original plat may make and execute upon such copy, in the manner in which deeds are required to be executed and acknowledged, a certificate setting forth a full description of the land originally surveyed and covered by said original plat, and that the said copy is a true and accurate copy of said original plat, and such copy, so authenticated, shall thereupon be filed in the office of the register of deeds of the proper county without the certificate of the county auditor, of "taxes paid and transfer entered" thereon, and shall stand in the place of such plat so lost or destroyed.

(1893, c. 213, § 1.7)

§ 2328. Same—May be replaced by new plat, when.

That in all cases of lost or destroyed plats as above, where no copy exists, or where, by reason of changes or alterations in said original plat by judicial proceedings, the property thereby covered cannot be correctly described by reference thereto, the present proprietors, or any of them, may cause a new survey to be made according to such original plat, and a new plat to be made which shall correctly designate the subdivision of said land in the manner now provided by law, and which said plat, so made, shall be certified to, in the manner provided in section one of this act, by the surveyor or surveyors, or one of them, who laid out and surveyed said land for said original plat, and in case such surveyor or surveyors shall have died, or his or their place

⁵An act relative to plats of towns and cities in this state, and of additions to and subdivisions thereof, and the correction and legalization of the same. Approved April 1, 1891.

⁶An act to confirm and validate plats heretofore filed for record. Approved April 24, 1889.

By § 2 this act is not to apply to any action or proceeding pending at the time of passage of the act.

⁷An act to provide for the restoration of lost or destroyed plats of towns or cities, of additions thereto or subdivisions thereof, and to give effect to the same as evidence. Approved April 5, 1893.

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of abode be unknown, which fact may be proven in the manner provided in section one of this act, then by one or more of the proprietors of said land who executed said original plat, as being a true copy of said original plat save as to such changes and alterations, all which changes and alterations, as well as the lines of said original survey, shall fully appear upon said new plat, and, when duly authenticated as above, the same shall be filed in the office of the register of deeds of the proper county without the certificate of the county auditor of "taxes paid and transfer entered" thereon, and shall stand in the place of said original plat.

(Id. § 2.)

§ 2329. Evidence.

Such new plat, or such copy, certified and executed as above, shall, when filed, be received as prima facie evidence in all cases as to lands thereby covered.

(Id. § 3.)

(627)