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# 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

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## CHAPTER 50

## WEIGHTS AND MEASURES

## 5799. Penalty for violation—

See note under § 8913, post.

## 5801. Sealing—

Failure to comply with statute does not prevent introduction of recorded weights in evidence (121-321, 141+298). Weights and Measures, ↪7.

## CHAPTER 51

## INTEREST AND NEGOTIABLE INSTRUMENTS

## INTEREST

## 5805. Rate—

Notes given for the price of land located in another state, though executed and delivered in this state, will be presumed to be governed by the law of the state which renders the notes valid as against a claim of usury (128-30, 150+229, L. R. A. 1916D, 739). Usury, ↪2(1).

Where one makes a loan to another from his own funds, but with a view to sell one of the notes to a third person, and the borrower actually receives less, after computing interest at the highest legal rate, than he agrees to repay, the transaction is usurious (132-323, 156+666). Usury, ↪55.

Whether a transaction is usurious is usually a question of fact; but where the facts are undisputed, and only one inference can be drawn therefrom, usury becomes a question of law (132-323, 156+666). Usury, ↪119.

In action for damages for false representations in the sale of a stallion, plaintiff was entitled to interest on the amount paid for the animal as an element of damages (124-265, 144+954). Damages, ↪157(4).

A building loan is not usurious, though the addition of specified monthly dues to the stipulated rate of interest would call for a total rate of 12 per cent. per annum, where there is a further provision in the loan agreement that the borrower shall participate in the profits of the building association, the amount of which is not shown, and which may be sufficient to reduce the rate actually paid to less than 10 per cent. (132-19, 155+765). Building and Loan Associations, ↪33(6).

## 5807. Usurious contracts invalid—Exceptions—

Where a loan is made under an agreement that it shall be governed by the laws of another state, in which state the money is made payable, and under the laws of that state the loan is not usurious, though it would be usurious under the laws of this state, a mortgage given to secure the loan on lands in this state is valid (132-19, 155+765). Usury, ↪2(4).

Though a note secured by mortgage has passed to a bona fide purchaser of the note free from the defense of usury, the mortgage cannot be enforced (132-323, 156+666). Usury, ↪128.

Expenses incident to making a loan which do not give the lender a greater return than the maximum rate on interest do not render the loan usurious. A loan for which the borrower paid the maximum rate of interest, and in addition paid the mortgage registry tax, held not usurious (125-218, 146+350, 51 L. R. A. [N. S.] 465, Ann. Cas. 1915C, 774). Usury, ↪53.

5812. Salary loans and chattel mortgage loans—License—Before any such corporation shall engage in the business of making such loans, and charge the rates and fees permitted by this act, it shall first obtain and have in force and effect a license for carrying on such business in the city in which such business shall be transacted. Such license shall be issued by the city clerk or corresponding officer of such city, and it shall be renewed annually, and shall not be transferable. Such license shall be granted on application to such city clerk or corresponding officer in writing pursuant to such form as such clerk or corresponding officer, or city council, or corresponding body may prescribe, for which license the licensee shall pay annually to the treasurer of said city at the time of taking out said license or renewal a uniform fee of \$25.00 per year. Such licenses shall not be granted until the applicant there-

for shall file a statement under oath by its treasurer or some other officer, stating the place in the city where the business is to be carried on, the names of the corporation's officers and manager, and also an affidavit by its treasurer that in the fiscal year of said corporation next preceding the date of said application, the corporation did not pay its stockholders upon their shares in money or money's worth dividends in excess of eight per cent (8). (Amended '15 c. 117 § 1)

## TITLE I—NEGOTIABLE INSTRUMENTS IN GENERAL

### ARTICLE I. FORM AND INTERPRETATION

#### 5814. Certainty as to sum—What constitutes—

Cited (183-230, 158+253).

#### 5835. Forged signature—Effect of—

This section protects the party whose signature has been forged or affixed without his authority, but does not release other parties from liability actually assumed by them in signing the note (135-171, 160+667). Bills and Notes, Ⓒ378. See, also, note under § 5936.

### ARTICLE II. CONSIDERATION

#### 5836. Presumption of consideration—

124-532, 144+1135.

#### 5837. Consideration, what constitutes—

The issuance and delivery of a life policy is a sufficient consideration for a note previously given for the first premium (128-241, 150+870). Insurance, Ⓒ187(3).

An indorsee of negotiable paper, taken before maturity as collateral security for an antecedent debt, in good faith and without notice of defenses, holds the same free from such defenses (127-390, 149+658). Bills and Notes, Ⓒ358.

Subsequent bankruptcy of a corporation does not establish failure of consideration for a note given for the purchase price of a share of stock (123-208, 143+353, L. R. A. 1915A, 464, Ann. Cas. 1915A, 420). Corporations, Ⓒ90(1).

#### 5838. What constitutes holder for value—

Where bank discounts note before maturity, and places proceeds to credit of payee, a depositor, the bank is not a holder for value until the deposit is exhausted by payment of checks, the amount of checks being charged against the oldest item of deposit (122-215, 142+139, Ann. Cas. 1914D, 977). Bills and Notes, Ⓒ356, 525, 537.

#### 5840. Effect of want of consideration—

Want of marketable title held a good defense to a note given for the price of land (123-66, 142+1041). Bills and Notes, Ⓒ335; Vendor and Purchaser, Ⓒ308(1).

Parol evidence held admissible to show that a note was without consideration, and that the proceeds thereof were given to the maker as a gift from his father, the payee (125-115, 145+785). Evidence, Ⓒ432.

### ARTICLE III. NEGOTIATION

#### 5855. Indorsement where name is misspelled et cetera—

That word of name of corporate payee was omitted from body of note, while indorsement was in correct name, did not affect validity of indorsement (122-215, 142+139, Ann. Cas. 1914D, 977). Bills and Notes, Ⓒ271½.

#### 5861. Transfer without indorsement—Effect of—

Delivery of notes to surety on his payment of same (128-519, 151+529). Bills and Notes, Ⓒ209, 315.

### ARTICLE IV. RIGHTS OF THE HOLDER

#### 5864. What constitutes a holder in due course—

Evidence held to show that plaintiff was not an innocent purchaser of the note sued on (123-374, 143+980). Bills and Notes, Ⓒ516.

Whether plaintiff purchased the note sued on before maturity, and paid a specified sum therefor, held, under the evidence, a question for the jury (127-291, 149+467). Bills and Notes, Ⓒ537(6).

The transfer of negotiable paper for value and in the usual course of business, as collateral security, vests in the holder a valid title, similar in all respects to that held by an unconditional indorsee (127-113, 148+1080). Pledges, Ⓒ21.

Where maker of note did not schedule it in bankruptcy proceeding, and an accommodation indorser was compelled to pay it, the maker, sued by such indorser, was required to show that holder had actual notice of bankruptcy proceeding (162+1076). Bankruptcy, Ⓒ425.

In action by receiver of state bank to recover money received by defendant bank on checks of state bank's officer and paid out of state bank's funds when officer's deposit was insufficient, evidence held to show the good faith of defendant in receiving checks and of those participating in their collection (162+1051). Bills and Notes, Ⓒ525.

#### 5868. What constitutes notice of defect—

One claiming to be a holder in due course of corporation notes signed by its president alone is charged with notice of a by-law of the corporation requiring that notes shall be signed by the president and secretary, where such by-law was enacted in accordance with the requirement of § 6172, post (134-445, 159+1078). Corporations, Ⓒ429.

Payment by bank of draft payable to bank, and in hands of stranger thereto (127-105, 149+3, L. R. A. 1915B, 237). Banks and Banking, Ⓒ138.

Personal check of a bank officer drawn upon the bank and accepted in payment of his note does not charge holder with notice that there is an attempt to misappropriate bank's funds (162+1051). Banks and Banking, Ⓒ112.

#### 5871. Who deemed holder in due course—

Where bank discounted note before maturity, and placed proceeds to credit of payee, a depositor, and defendant pleaded breach of warranty of automobile, for the price of which note was given, the burden of proving that plaintiff bank was not a holder in due course was on defendant (122-215, 142+139, Ann. Cas. 1914D, 977). Bills and Notes, Ⓒ497(2).

If a defense of fraud in procuring a note is established by the evidence, it is the duty of the court to instruct that plaintiff, a transferee of the note, has the burden of proving that he was a bona fide purchaser (127-291, 149+467). Bills and Notes, Ⓒ491.

### ARTICLE VI. PRESENTMENT FOR PAYMENT

#### 5882. Effect of want of demand on principal debtor—

When a note is payable on demand after date, suit may be maintained, though a demand has not been made (161+398). Bills and Notes, Ⓒ395.

#### 5894. When presentment may be dispensed with—

Cited (161+398).

5897. Time of maturity—Every negotiable instrument is payable at the time fixed therein without grace. When the day of maturity falls upon Sunday, or a holiday, the instrument is payable on the next succeeding business day. Instruments falling due or becoming payable on Saturday are to be presented for payment on the next succeeding business day, except that instruments payable on demand may, at the option of the holder, be presented for payment before twelve o'clock noon on Saturday when that entire day is not a holiday; and if presented after 12 o'clock noon on Saturday when that entire day is not a holiday may at the option of the payor be then paid. (Amended '17 c. 204 § 1)

### ARTICLE VIII. DISCHARGE OF NEGOTIABLE INSTRUMENTS

#### 5932. When persons secondarily liable on, discharged—

A promise to pay a past-due debt is not such a consideration for an extension of time of payment, as will release a surety (124-541, 145+164). Principal and Surety, Ⓒ108(2).

#### 5936. Alteration of instrument—Effect of—

Where Knox and Burchard executed a note payable to the order of "ourselves," by signing their individual names upon the face of the note and indorsing their individual names on the back thereof, and the note was subsequently altered so that it purported to be executed by the Knox-Burchard Mercantile Company, and to be indorsed by that company and by Knox, Burchard, and others individually, and thereafter the note was negotiated to plaintiff, a holder in due course, Burchard is liable on the note according to its original tenor, in view of this section, which applies to the situation, and not § 5835 (135-171, 160+667). Bills and Notes, Ⓒ378.

#### 5937. What constitutes a material alteration—

The act of a third person in signing a note as surety before delivery to the payee, without the knowledge of the maker, does not discharge the maker; the alteration not being a material one (128-519, 151+529). Alteration of Instruments, Ⓒ8.

### MISCELLANEOUS PROVISIONS

#### 6015. Instrument obtained by fraud—

Evidence held to show that a note was procured by fraud (123-374, 143+980). Bills and Notes, Ⓒ520.

Evidence held to justify a finding of the jury that defendant was induced to sign a note by fraud in the belief that it was not a note (126-42, 147+823). Bills and Notes, Ⓒ520.