

REVISED LAWS OF MINNESOTA 94

SUPPLEMENT 1909

CONTAINING

THE AMENDMENTS TO THE REVISED LAWS,
AND OTHER LAWS OF A GENERAL AND
PERMANENT NATURE, ENACTED
BY THE LEGISLATURE IN
1905, 1907, AND 1909

WITH HISTORICAL AND EXPLANATORY NOTES TO PRIOR STATUTES
AND FULL AND COMPLETE NOTES OF ALL
APPLICABLE DECISIONS

COMPILED AND ANNOTATED BY
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ST. PAUL
WEST PUBLISHING CO.

1910

posed of or invested as the court shall specially direct. Before a mortgage sale, or lease can be made pursuant to the final order, the trustee must enter into an agreement therefor, subject to the approval of the court and must report the agreement to the court under oath. Upon the confirmation thereof, by order of the court he must execute as directed by the court a mortgage, deed or lease. A mortgage, deed or lease made pursuant to a final order granted as provided in this and the last two preceding sections shall be valid and effectual against all minors, lunatics, persons of unsound mind, habitual drunkards and persons not in being interested in the trust or having estates vested or contingent in reversion or remainder in said real property and against all other persons so interested or having such estates who shall consent to such order, or who having been made parties to such proceeding as herein provided, shall not appear therein and object to the granting of such order. All parties in interest may appear voluntarily and consent in writing to such sale, mortgaging or leasing of such real property; and testamentary guardians and guardians appointed by the probate court, may assent thereto in the place of their wards. A person who shall actually and in good faith pay a sum of money to a trustee, which the trustee is authorized to receive, shall not be responsible for the proper application of the money, according to the trust; and any right or title derived by him from the trustee in consideration of the payment shall not be impeached or called in question in consequence of a misapplication by the trustee of the money paid. (G. S. 1878, c. 43, § 21, as amended by Laws 1905, c. 339, § 1.)

Historical.—"An act to amend section twenty-one of chapter forty-three of the General Statutes of one thousand eight hundred and seventy-eight, being section four thousand two hundred and ninety-four of the General Statutes of 1894, relating to uses and trusts." Approved April 19, 1905.

Said section 21 was section 21 of G. S. 1866, c. 43, which was repealed by R. L. § 5518; its provisions being incorporated in section 3259. So far as the amended section above set forth differs from said section 3259, it is to be construed, by virtue of section 5504, as amendatory or supplementary.

CHAPTER 61.

POWERS.

3267. Power defined.

Cited in *Rogers v. Clark Iron Co.*, 104 Minn. 198, 116 N. W. 739.

3272. Power is beneficial, when.

Cited in *Rogers v. Clark Iron Co.*, 104 Minn. 198, 116 N. W. 739.

3281. Power of tenant for life to make leases.

Cited in *Rogers v. Clark Iron Co.*, 104 Minn. 198, 116 N. W. 739.

[CHAPTER 61A.]

[OFFICIAL TRUSTS.]

[3326—]1. **Corporate authorities or judge to convey lands.**—That when the corporate authorities of any town or the judge of the district court for any county wherein such town is situated enter, at the proper land office, the land or any part thereof, settled and occupied as the site of such town, pursuant to an act of congress, entitled, "An act for the relief of the citizens of towns upon lands of the United States under certain circumstances," passed May 23,

1854, and acts amendatory thereof, such authorities or judge shall dispose of and convey the title of such lands, or any part thereof, to the persons and in manner herein specified. ('07 c. 210 § 1)

Historical.—"An act providing for the execution of the trust arising under the act of congress entitled, 'An act for the relief of citizens of towns upon lands of the United States under certain circumstances' and acts amendatory thereof, and giving authority to judges and corporate authorities to carry out such trust, and legalizing all acts done and proceedings taken in accordance with the provisions of chapter 42 of the General Statutes of 1866 and amendments thereto, between March 1st, 1906, and the date of taking effect of this act." Approved April 15, 1907.

Sections [3326—] 1 to [3326—] 16 correspond substantially with G. S. 1866, c. 42 ("Official Trusts"), which was repealed by R. L. § 5518. See section [3326—] 18.

[3326—]2. Conveyances, when and how executed.—Any such judge or authorities, holding the title to any such lands in trust, as declared by said act of congress, shall, by a good and sufficient deed, grant and convey the title to said land, and each part thereof, to the person entitled thereto, according to his rights or interest therein, existing in law or equity, at the time of entry of such lands; and when any part of such lands is occupied or possessed by any one claiming by grant, lease or sale from any other person, the respective rights and interests of such persons shall not be changed or impaired by such conveyance. Every such conveyance shall be executed and acknowledged as to admit to record in the office of the register of deeds, and if made previous to the issuing of the patent of such lands, it shall contain a covenant that the grantor, shall, after issuing of the patent therefor, execute and deliver to the grantee, his heirs and assigns, such other deed as may be or become necessary to fully vest and perfect the title to such lands in such grantee, his heirs or assigns. ('07 c. 210 § 2)

[3326—]3. Entry of lands—Notice to be given.—Within thirty days after the entry of such lands, or if heretofore entered, after the passage of this act, such judge or authorities so entering the same, shall give posted notice of such entry in such town and publish notice thereof for three consecutive weeks in the county where such land is situated. Such notice shall contain an accurate description of the lands so entered as stated in the certificate of entry or duplicate receipt for the purchase money thereof. ('07 c. 210 § 3)

[3326—]4. Claimants to file statement.—Every person claiming to be entitled to such land or any part thereof, or his duly authorized agent or attorney, shall within sixty days after the first publication of such notice, sign a written statement containing an accurate description of the parcel or parts in which he claims to have an interest and the specific right, interest or estate which he claims to be entitled to receive, and shall deliver the same to such judge or authorities; and any person failing to sign and deliver such statement within the time herein specified, shall as against adverse claimants, be forever barred from the right of claiming or recovering such lands, or any estate or interest therein in any court. ('07 c. 210 § 4)

[3326—]5. Adverse claims, how adjusted—Action.—In case there are adverse claimants to such lands or any part thereof, and the controversy is not settled by written agreement, it may be determined by submission in writing by the parties to reference or arbitration and by the written award of the arbitrators. If it is not so settled or determined within three months from the time of entry of such land, either claimant may commence a new action against the other in the district court of the county wherein such lands are situated. ('07 c. 210 § 5)

[3326—]6. Evidence on trial of action.—Upon the trial of such action, either party may give in evidence the statement deposited

by the other, or the person under whom he claims, as provided for in section 4 of this act, and the person who made the first claim to any settlement, either in person or by agent, servant or tenant, or those claiming under him, upon such land, shall in such action be deemed to have the right to such land. ('07 c. 210 § 6)

[3326—]7. Summons to adverse claimants—Hearing—Evidence—Appeals.—In case such controversy is not settled or determined by agreement or arbitration within the time hereinbefore specified, and is not prosecuted within one month after such time expires, if the title to such land is held by any such judge, he shall summon the claimants to appear before him at a specified time and place within the county wherein such lands are situated, and make allegations and proof of their respective claims. At such time and place if the parties appear, such judge shall proceed to hear their allegations and proof and shall thereupon determine, in writing, such controversy. Upon such hearing the deposited statements, required by section 4[3326—4] of this act, shall stand for the pleadings and either party may use in evidence the statement of the other or of the person under whom he claims. Witnesses testifying at such hearing shall be sworn and the evidence reduced to writing. Such judge or any justice of the peace, may issue subpoenas to witnesses to attend such hearing, and any person so served who fails to appear in response to such subpoena shall be deemed guilty of contempt and may be attached to answer such contempt and to testify in the case. There shall be no postponement of such hearing except for cause. The summons and subpoenas issued in such cases shall be treated and served in the same manner as processes in civil actions, and the fees of officers and witnesses shall be the same as provided in such cases. Either party may appeal to the supreme court from the decision of the judge in such proceeding in the same manner as appeals in civil actions are taken from a judgment of the district court. Upon such appeal, the judge shall make a return to the supreme court consisting of the statements constituting the pleadings, the evidence, and the decision of such judge. If any person summoned to appear before such judge in such a proceeding fails to appear, he shall be deemed to have waived and relinquished all his right, title, interest and estate in the land in controversy, and every part thereof, and shall be forever barred from asserting or claiming any right, title, interest or estate therein. ('07 c. 210 § 7)

[3326—]8. Actions by corporate authorities—Pleadings.—If such controversy is not settled or determined as mentioned and provided in section 7[3326—7], and the title of such land is held by the corporate authorities of any town, such authorities may commence an action in the district court of the county wherein such land is situated against the adverse claimants to determine the same. The complaint shall be in the nature of a bill of interpleader and shall set forth an accurate description of the lands in controversy and the character and extent of claimants' rights, interests or estates as shown by their respective statements deposited as provided by section 4[3326—4] of this act, and shall pray that the claimants be required to appear in such court and prosecute their claims or be forever barred thereof. The summons shall be issued and served in like manner as required by section 7[3326—7] and any party summoned who fails to appear and answer such complaint as required by said summons shall be forever barred of all right to assert any claim or title to such lands adverse to the other claimants in such action. Any claimant who appears shall make answer to such complaint and either disclaim any right, title, interest or estate in the

lands therein described or set forth the character and extent of his right, title, interest or estate therein. ('07 c. 210 § 8)

[3326—]9. Statement of expense—Charge on lands.—As soon as may be after the expiration of sixty days from the time of the first published notice, required by section 3[3326—3] of this act, the judge or authorities holding the title to lands described in such notice shall make a written statement, containing a true account of moneys expended in the acquisition of the title and the administration of the trust, including moneys paid for the purchase of such lands, all necessary traveling expenses, posting and publishing notices, serving summons, subpoenas and other processes and all other necessary expenses incident to such trust, and also an account of charges for services rendered as such trustee. The whole amount of such statement of account shall be a charge in favor of the trustee upon the lands as held in trust and shall be paid pro rata by the claimants to such land as their respective entitled shares thereof appear. ('07 c. 210 § 9)

[3326—]10. Person entitled to deed to pay charges.—Before any such judge or authorities shall be required to execute, acknowledge or deliver any deed of conveyance of such land or any part thereof, as hereinbefore provided, to any person entitled to such deed, such person shall pay or tender to such judge or authorities the amount shown by the statement provided in section 9[3326—9] of this act, chargeable upon the same or that part thereof to be conveyed, together with interest on each of the items of such account at 6 per cent per annum from the date of each item, and also such further amounts as are reasonable for preparing, executing and acknowledging such deed and acknowledgment fees therefor. ('07 c. 210 § 10)

[3326—]11. Conveyances, when to be executed—When not.—After the expiration of sixty days from the time of the first published notice provided in section 3[3326—3], such judge or corporate authorities shall, upon demand of the person entitled thereto, and upon payment or tender by such person to such judge or authorities of the amount provided in section 10, execute, acknowledge and deliver to such person a deed of conveyance, as provided in section 2[3326—2] and in accordance with the statement required to be made and deposited by section 4[3326—4] of this act; provided, that no such deed for any of such land, or any part thereof, shall be executed or delivered when there are adverse claimants thereto until such controversy is settled or determined as hereinbefore provided. In all cases where there is no such controversy, upon the application of any person claiming such land, the judge of the district court of the district where said land is situated shall by such notice as he shall prescribe, summon before him such claimant and cause proof to be made by oral testimony, affidavit, deposition or otherwise, as shall satisfy him who is the person entitled to such land, and when it shall thus be determined, the said judge or authorities upon like demand and payment, or tender of payment, shall execute and deliver to the person so determined to be entitled thereto a deed of conveyance, as provided in section 2[3326—2]. ('07 c. 210 § 11)

[3326—]12. Judge shall be seized of title to lands, when.—In case any judge of the district court who enters any such land under said act of congress and thereby becomes the sole trustee thereof, is possessed of or entitled to the same or any part thereof in accordance with the provisions of this act and his right or claim is not disputed or claimed adversely by any other person, he shall be seized of the title thereto and the estate therein in fee simple to his own use

absolutely, free and discharged of such trust; and no conveyance, other than the patent of such land, shall be necessary to perfect his title thereto. If any such land is claimed by any person adversely to such judge, the conflicting claims between them shall be determined by settlement, arbitration or by action as hereinbefore provided for determining adverse claims; and in case such an action is necessary, the issues therein shall be tried before and determined by some other judge of the district court who is disinterested. ('07 c. 210 § 12)

[3326—]13. **Title to lands, from what time held.**—For the purpose of determining the rights of adverse claimants to any such entered land, the judge or corporate authorities shall be deemed to possess and hold the title thereto in trust, from the time of entry thereof. ('07 c. 210 § 13)

[3326—]14. **Costs, how regulated.**—The costs in actions and proceedings provided in this act shall be regulated and recoverable as in civil actions in this state. ('07 c. 210 § 14)

[3326—]15. **Reconveyance pursuant to contracts.**—Every person in whom the title to any land shall be declared to be vested under this act shall reconvey, by good and sufficient deed, to any person claiming by, through or under him pursuant to a contract made by such persons, upon demand and upon payment of any money due or unpaid to him from the person making such demand; and in case of refusal so to convey, such contract may be enforced by action according to law. ('07 c. 210 § 15)

[3326—]16. **Successor of judge to complete execution of trust.**—The successor in office of any judge entering lands under this act, shall, if the trust has not been fully executed, succeed to such trust, and shall have authority to execute the same as fully and in the same manner as his predecessor. ('07 c. 210 § 16)

[3326—]17. **Act to apply, to what lands.**—The provisions of this act shall apply to lands held in trust at the time of passage hereof when no previous disposition thereof under said trust has been made. ('07 c. 210 § 17)

[3326—]18. **Certain acts validated.**—That all acts done by any such corporate authorities or judge and all proceedings had and taken before any district court, in accordance with the provisions of chapter 42 of the General Statutes of 1866, and amendments thereto, between the first day of March, 1906, and the time this act takes effect are hereby legalized and validated in all respects, and shall have the same force and effect as if chapter 42 of the General Statutes of 1866, and amendments thereto, had not been repealed by the Revised Laws, 1905. ('07 c. 210 § 18)

Historical.—For amendments, see Laws 1874, c. 82, Laws 1889, c. 159 (G. S. 1894, §§ 4271 to 4273).

See note under section [3326—]1.

CHAPTER 62.

LANDLORDS AND TENANTS.

3332. Estate at will, how determined—Notice.

Cited in *Kenny v. Seu Si Lun*, 101 Minn. 253, 112 N. W. 220, 11 L. R. A. (N. S.) 831.

Waiver of notice.—Where the landlord, after notice to the tenant to quit, agrees that the tenant may remain in possession notwithstanding such notice, the notice is waived. *Arcade Inv. Co. v. Gieriet*, 99 Minn. 277, 109 N. W. 250.