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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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1918

Where a lease was terminated by destruction of the leased premises, the lessor was entitled to recover a proportionate part of the yearly rent (125-1, 145+399, Ann. Cas. 1915C, 600). Landlord and Tenant, [§211\(1\)](#).

**6811. Estate at will, how determined—Notice—**

A tenant, who has given notice that he will terminate a tenancy from month to month, waives notice from the landlord to quit when he holds over after the time for termination as contemplated by his notice (126-452, 148+297, L. R. A. 1915A, 235). Landlord and Tenant, [§115\(3\)](#), [116\(3\)](#).

**6812. Urban real estate—Holding over—**

Where a tenant gives notice of an intention to terminate a tenancy from month to month, but holds over, this section does not operate to make such tenancy one for a single month, so as to obviate the giving of a new notice (126-452, 148+297, L. R. A. 1915A, 235). Landlord and Tenant, [§116\(5\)](#).

[6812—]1. Notice to landlord of vacation in certain cases—Penalty— Every person who shall, between the 15th day of November and the 15th day of April following, remove from, abandon or vacate any building or part thereof, occupied by him, or in his possession, as tenant, except upon the termination of his tenancy, and which contains any plumbing, water, steam or other pipe liable to injury from freezing, without first giving to the landlord, owner, or agent in charge, of such building three days notice of his intention so to remove, shall be guilty of a misdemeanor. ('15 c. 213 § 1)

## CHAPTER 63

### CONVEYANCES OF REAL ESTATE

**6813. Terms defined—Mortgages, etc., included—**

The interest acquired by a vendee in a contract of sale is one that may be conveyed by deed (123-483, 144+222). Vendor and Purchaser, [§207](#).

An assignment of a certificate of sale of state land is a conveyance of real estate within this section, and a good-faith purchaser who places his assignment on record is protected by the recording acts against a prior unrecorded assignment (135-408, 161+156; 135-449, 161+155). Public Lands, [§54\(10\)](#), 138.

An assignment of a certificate of sale of state land, with the assignee's name left blank, is a nullity until the name of the assignee is inserted, and hence does not operate as a conveyance (135-449, 161+155). Public Lands, [§135\(5\)](#).

**6814. Conveyances by husband and wife—Powers of attorney—**

A wife, joining in the deed of a homestead owned by the husband as security for a loan for future advances to him, binds her homestead right (127-419, 142+721). Homestead, [§118\(1\)](#).

Since the enactment of this section, a husband, in an action involving land not a homestead, may testify to a conversation with a deceased person, his wife being a party to the action (132-242, 156+260). Witnesses, [§159\(1\)](#). See also (132-254, 156+263).

Though separate deeds by husband and wife to their homestead are void, where the wife has removed from the homestead, executed a separate quitclaim deed to a purchaser from the husband, and obtained a divorce, the husband cannot assert, as against a subsequent bona fide purchaser, that his own separate deed is void, since he is himself estopped to deny the validity of the conveyance, and the wife has abandoned her homestead right (133-261, 158+244). Homestead, [§122](#).

Delivery of separate deed of wife of land previously conveyed by husband without joinder of wife (see 128-535, 150+1103).

[6823—]1. Conveyances by husband or wife to spouse—Curative— That all conveyances of real property within this state, made prior to the first day of January, 1915, in which a married man or married woman has conveyed real property directly to his or her spouse, shall be and the same are hereby declared to be legal and valid, and the records of such conveyances heretofore actually recorded in the office of the Register of Deeds of the proper county shall be in all respects valid and legal; and such conveyances and the records thereof shall have the same force and effect in all respects as conveyances of title and for the purpose of notice, evidence or otherwise, as may be provided by law in regard to conveyances and their records in other cases. Provided, that the provisions of this act shall not apply to any action or proceeding now pending in any of the courts of this state. ('15 c. 218 § 1)

[6824—]1. **Conveyances by husband under power of attorney from wife—Curative**—No suit at law or proceeding in equity in any of the courts of the State of Minnesota, shall be brought to set aside any conveyance of land situated in the State of Minnesota, which said conveyance was made, executed and delivered prior to January 1, 1915, and was made by a husband for and on behalf of his wife acting under and by virtue of a power of attorney, made, executed and delivered by such wife to her husband unless such action at law or proceeding in equity is commenced on or before the first day of January, 1916, and all such conveyances in which such an action or proceeding is not commenced prior to January, 1916, are hereby legalized and declared to be legal conveyances of all of the right, title and interest of said wife and husband in and to such land to the purchaser thereof; provided, that the said power of attorney and conveyance have been duly recorded in the office of the register of deeds of the county wherein the said land is situated, for more than ten years prior hereto, and provided that the provisions of this act shall not apply to or in any manner affect the title to any land, the title to which is now in litigation. ('15 c. 314 § 1)

**6825. Husband or wife of insane person**—The husband or wife of any person who has been adjudged by a probate court of this state to be insane or incompetent to transact his or her business or manage his or her estate, and of whose person or estate, or both, a guardian has been appointed by such court, may, with such guardian's approval, by separate deed convey any real estate, the title to which is in such husband or wife, as fully as he or she could do if unmarried, provided that, in any such case, a duly certified copy of the letters of guardianship of such guardian shall be recorded in the office of the register of deeds of the county in which such real estate is situated and the approval of such conveyance by such guardian shall be in writing, after being first authorized so to do by an order of such probate court, and shall be endorsed on the instrument of such conveyance. Without such approval of such guardian, a conveyance by such husband or wife shall not affect the rights of the insane or incompetent spouse.

Provided further, that in any case where no guardian has been appointed of the person or estate of such insane or incompetent spouse and such insanity or incompetency has existed for three years subsequent to the adjudication of the insanity or incompetency of such insane or incompetent spouse, then and in such event, the husband or wife of such insane or incompetent person may convey any real estate, the title to which is in such husband or wife, as fully as he or she could do if unmarried.

Provided further, that this section shall not authorize the conveyance of a homestead unless the guardian of the person or estate of such insane or incompetent person has been appointed by the probate court of the proper county and such guardian shall consent in writing to such conveyance, by endorsement thereon, after being first authorized so to do, by order of such probate court. (Amended '15 c. 131 § 1)

**6827. Quitclaim—Words of inheritance unnecessary to pass fee—**

A quitclaim deed conveys the equitable title of the holder of a certificate of sale of state land (135-408, 161+156). Public Lands, Ⓒ135(5).

**6829. No covenants implied—Adverse holding—**

The existence of a rural highway across land conveyed by warranty deed in the usual form does not constitute a breach against incumbrances (122-368, 142+878, 48 L. R. A. [N. S.] 619, Ann. Cas. 1914D, 1007). Covenants, Ⓒ100(2).

**6832. Liability of grantor who covenants against incumbrances—**

A reassessment on account of undervaluation held not an incumbrance constituting a breach of warranty (129-87, 151+537).

**6844. Recording act—Unrecorded conveyances void, when—**

**What is a conveyance**—An assignment of a certificate of sale of state land is a conveyance within § 6813, and a purchaser in good faith of such certificate, who places his assignment on record, is protected by this section against a prior unrecorded assignment (135-408, 161+156). Public Lands, Ⓒ54(10), 138.

**Registration—Parties**—A purchaser in good faith and without notice from a registered owner takes the title free from the claim of a person fraudulently omitted as a party in the

registration proceedings, where such omission does not appear on the face of the judgment roll (123-182, 143+324, L. R. A. 1916D, 4). Records, ☞9(13).

**Rights of subsequent purchasers**—That a contract of purchase is of record is not conclusive of the rights of a subsequent purchaser from the vendor, where the purchaser named in the recorded contract by his acts evinces that he has abandoned the same (161+587). Vendor and Purchaser, ☞231(1).

Under this section a subsequent deed first recorded does not take precedence of a prior unrecorded deed, unless the grantee is a purchaser for a valuable consideration, and in this case the court did not err in refusing to find that plaintiff purchased for value (133-153, 157+1072). Vendor and Purchaser, ☞236.

Evidence in a suit to set aside a deed of lots to defendant as void held to support finding that deed was duly executed, delivered, and recorded without fraud prior to deed of same property executed by same grantor to plaintiffs (102+527). Deeds, ☞211(3).

**Mortgage notice of what**—The record in one county of a mortgage containing an after-acquired property provision is not constructive notice to a subsequent incumbrancer of property afterwards acquired by the mortgagor in another county (132-277, 156+255). Mortgages, ☞171(5).

A mortgage given to the record owner by one who is a stranger to the title is not notice of an unrecorded deed from the record owner to the mortgagor (131-99, 154+743). Vendor and Purchaser, ☞231(5).

[6848—]1. **Recorded conveyances—Curative**—That in all cases where deeds, mortgages or other instruments affecting real estate within this state, or letters of attorney authorizing the same, have heretofore been actually recorded in the office of the register of deeds of the county where the real estate thereby affected was, at the time of making of such records, or is, situate, whether such deeds or other instruments were duly or properly admitted to record or otherwise, all such instruments and the record thereof are hereby legalized and confirmed; and all such records may nevertheless be read in evidence in any court within this state, and shall be received as prima facie evidence of the contents of the original instruments of which they purport to be records;

And all such records shall in all respects have the same force and effect as they would have if such original instruments at the time that they were so recorded had been legally entitled to record and were legally recorded. ('17 c. 200 § 1)

[6848—]2. **Same—Copies as evidence—Pending actions**—That duly authenticated copies of such record may be read in evidence in any court within this state, with the same effect as the records themselves aforesaid.

Provided, that nothing in this act shall be held to apply to any action heretofore commenced or now pending in any of the courts of this state nor to any deed, mortgage or other instrument or the record thereof, on which any mortgage registry tax provided by law has not been paid. ('17 c. 200 § 2)

#### 6849. Instruments relating to timber, minerals, etc.—

A written contract held to constitute a sale of timber, which was not reduced to a mere license to cut the timber by a restriction against alienation of less than the whole of the contract or the land, or without the vendor's approval (126-176, 148+43). Logs and Logging, ☞3(7).

[6850—]1. **Record of notice of condemnation in certain cases**—Whenever any city, village, board of park commissioners or board of public works in this state shall hereafter take or acquire, by condemnation proceedings, any land or lands or any easement or interest therein for laying out, opening, widening, extending or establishing any public street, highway or alley, or for public parks, parkways or other public purposes, or shall vacate or abandon any public street, highway, alley, park or public grounds or any portion thereof, or any easement or interest therein, a notice in writing of the completion of every such condemnation proceeding and of every such vacation or abandonment of any public street, highway, alley, park or public grounds or any portion thereof, shall be forthwith filed for record with the register of deeds of the county within which the lands and premises vacated thereby are located. Such notice shall be prepared and filed by the clerk, recorder or other person charged with the duty of keeping the records of such city, village, board or park commissioners or board of public works so acquiring any such lands or vacating or abandoning any such street, highway, park or public grounds, and such notice shall contain a statement of the time of the completion of such condemna-

tion proceedings or of such vacation or abandonment, as the case may be, and the name of the city, village or board by whom such proceedings are prosecuted or such vacation is made, and a description of the real estate and lands affected thereby. Any failure to file such notice shall not invalidate or make void any such condemnation proceeding for such vacation or abandonment of any public street, highway, park or public grounds or any portion thereof. ('17 c. 416 § 1)

Section 2 repeals 1915 c. 322.

#### 6851. When deed not defeated by defeasance—

A purchaser of land from the grantee in an absolute deed, without notice that the deed was given as security for a debt, is protected, as against the grantor and the holder of a subsequent judgment against such grantor, where the latter is in possession of the land and informs the purchaser that he holds as tenant only (123-293; 143+720). Judgment, [↔](#)787.

## CHAPTER 64

### PLATS

#### 6856. Survey and plat—Monument—Rivers, lakes, etc.—

A plat held effective as the dedication of a street (126-456, 148+501). Dedication, [↔](#)19(1). The boundary line of a street held to be in accordance with the finding of the trial court (126-456, 148+501). Boundaries, [↔](#)37(3).

#### 6857. Dedication—Certification—Approval—Verification—

No proof of acceptance of a statutory dedication is necessary (126-456, 148+501). Dedication, [↔](#)31.

Under village plat dedicating street, and providing that fee should not be included in any lot, fee remained in platter, and did not pass to subsequent purchasers of abutting property, but passed by platter's conveyance (162+453). Dedication, [↔](#)53.

The plat of Tuttle's addition to St. Anthony held to sufficiently describe the land platted. Failure of the owner to sign a plat, and the failure of the notary to attach his seal to the acknowledgment, held cured by Laws Ex. Sess. 1881 c. 57 § 1, validating plats (123-344, 144+150). Municipal Corporations, [↔](#)43.

6863. Vacation of plats—Upon the application of the owner or owners of land included in any plat, and upon proof that all taxes assessed against such land have been paid, and a notice hereinafter provided for given, the district court may vacate or alter all or any part of such plat, and adjudge the title to all streets, alleys and public grounds to be in the persons entitled thereto; but streets or alleys connecting separate plats or lying between blocks or lots, shall not be vacated between such lots, blocks or plats as are not also vacated, unless it appears that the street or alley or part thereof sought to be vacated is useless for the purpose for which it was laid out. The petitioner or petitioners shall cause two weeks' published and posted notice of such application to be given, the last publication to be at least ten days before the term at which it shall be heard; and said petitioner or petitioners shall also serve personally, or cause to be served personally, notice of such application, at least ten days before the term at which said application shall be heard, upon the mayor of the city, the president of the village, or the chairman of the town board of the town where such land is situated. The court shall hear all persons owning or occupying land that would be affected by the proposed vacation, and if, in the judgment of the court, the same would be damaged, the court may determine the amount of such damage and direct its payment by the applicant before the vacation or alteration shall take effect. A certified copy of the order of the court shall be filed with the county auditor, and recorded by the register of deeds; provided, however, that the district court shall not vacate or alter any street, alley or public ground dedicated to the public use in or by any such plat in any city, town or village organized under a charter or special law which provides a method of procedure for the vacation of streets and public grounds by the municipal authorities of such city, town or village. (Amended '17 c. 38 § 1)

A judgment vacating a portion of a plat, not including the plaintiff's property, did not bar a recovery of consequential damages by him. Evidence held to show consequential damages to