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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

COMPILED BY

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WEST PUBLISHING CO.

1918

one not in the vacated part of a plat, resulting from closing of streets, and the amount thereof (135-175, 160+771). Municipal Corporations, Ⓒ671(3, 4).

This section, as amended, deprives the district court of the authority to vacate or alter the public streets or alleys of the city of St. Paul, since the charter of said city provides a method for vacation of streets dedicated to the public by the city authorities under the first proviso of said section as amended (129-305, 152+643). Municipal Corporations, Ⓒ657(5).

The title of the act from which this section is derived does not so limit or restrict the act as to exclude the subject of vacation of plats or streets (129-305, 152+643). Statutes, Ⓒ123(4).

This act is not invalid, in that it makes an arbitrary classification of municipalities, in that it excepts cities of the first class having a special charter from its operation, for, irrespective of the proviso, such cities would not have their special charters repealed or affected by implication (129-305, 152+643). Statutes, Ⓒ93(4).

CHAPTER 65

REGISTRATION OF TITLE

6868.

Application of rule as to abatement of action on the ground of another action pending (see 127-416, 149+735). Abatement and Revival, Ⓒ7.

6871. Applicant's interest—No land, the title to which is derived from any tax or local assessment sale, shall be registered until such title has been adjudged to be valid by a court of competent jurisdiction, and a certified copy of the decree duly recorded with the register of deeds: Provided, however, that any person may make the application when for at least fifteen years the land has been in the adverse possession of the applicant or those through whom he claims title. No lesser estate than a fee simple, and no mortgage, lien or other charge upon land, shall be registered, unless the estate in fee simple therein is registered; but the fact that the estate or interest of the applicant is subject to any outstanding lesser estate or to a mortgage, or other charge or lien, shall not prevent its registration, and whenever a dock or harbor line has been established by Federal authority, the interest and estate of a riparian proprietor in the submerged lands lying between the original shore line and such established dock line may be registered under this act, subject, however, to the rights of the State of Minnesota in its sovereign capacity in the same and such registration shall not in any manner affect or change the rights of the state with respect to such lands. (Amended '15 c. 242 § 1)

Land, title to which is in the United States, cannot be registered (130-456, 153+871). Courts, Ⓒ489(5); Records, Ⓒ9(1, 4, 13).

6880. Reference to examiner—Reports—

The state cannot be made a party unless, in the opinion of the examiner, it has an interest in or lien upon the land (123-397, 143+981, L. R. A. 1916D, 1). Records, Ⓒ9(6).

In spite of § 8450, the examiner is not justified in relying on a receipt or certificate to an entryman by a local land office as establishing that the United States has parted with its title. Omission of duty by examiner as affecting right to compensation out of assurance fund (see 130-456, 153+871). Records, Ⓒ9(10). See, also, note under § 6943, ante.

6888. Dismissal—

Pendency of registration proceedings as ground for abatement of action to determine adverse claims (see 127-416, 149+735). Abatement and Revival, Ⓒ7.

6889. Decree of registration—Effect—

Where judgment is procured by fraud on the part of an applicant for registration in failing to name as parties or to serve claimants known to him, it is not binding on such omitted claimants, and where such defect appears on the face of the judgment roll, it is open to collateral attack; but if such defect does not appear the judgment cannot be attacked collaterally (123-182, 143+324, L. R. A. 1916D, 4). Records, Ⓒ9(13).

Where the existence of a claimant omitted from the registration proceedings by the fraud of the applicant does not appear from a judgment roll, one who purchases from the registered owner for a valuable consideration without notice takes the title free from all incumbrances and adverse claims (123-182, 143+324, L. R. A. 1916D, 4). Records, Ⓒ9(13).

Where the holder of tax certificates and the county were parties, a judgment adjudging the tax sales and certificates void held conclusive as against the county, and not open to collateral attack (123-397, 143+981, L. R. A. 1916D, 1). Records, Ⓒ9(13).

6892. Certificate of title—What survives—

The purpose of this section is to create an indefeasible title in the person adjudged to be the owner (123-182, 143+324, L. R. A. 1916D, 4). Records, ☞9(3).

6943. Damages through erroneous registration—Action—

Since land, title to which is in the United States, cannot be registered, the omission of the examiner to ascertain and report such fact is an "omission" which entitles a good-faith purchaser, relying on the certificate of title, to reimbursement out of the assurance fund, though the certificate does not purport to bar the rights of the United States. Purchasing registered land on the faith of the certificate of title, and without making an independent investigation of the title, is not negligence on the part of the purchaser (130-456, 153+871). Records, ☞9(10).

6944. Parties defendant—Judgment—Execution—

130-456, 153+871; note under § 6943.

CHAPTER 66

HOMESTEAD EXEMPTION

6957. Dwelling place exempt—Exceptions—

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

Where a vendor conveys to a third person, who is actually residing on the land, and such third person conveys to the vendee, an existing judgment against such third person does not become a lien as against the vendee, as whatever interest vested in such third person forthwith became his homestead (123-293, 143+720). Homestead, ☞103.

The owner of a lot 50 feet wide, living in a store building located on one side, and renting a small dwelling on the other side to third parties, is entitled to retain the entire lot as his homestead (134-478, 159+788). Homestead, ☞63.

Declarations of homestead claimant, since deceased, as evidence of homestead character of occupancy (128-525, 151+416). Evidence, ☞236(1).

6958. Area, how limited—

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

The homestead may consist of a tract made up of lots owned separately by husband and wife, where the aggregate of the two parcels does not exceed the statutory limit as to quantity (161+515; note under § 6960, post). Homestead, ☞70.

6960. Title may be in husband or wife—Equitable title exempt—

The interest acquired by the vendee in a contract of sale, where such vendee takes possession and makes improvements, is one subject to homestead estate (123-483, 144+222). Homestead, ☞128.

Where land owned by a wife adjoins that owned by the husband, and the same is in a single inclosure and occupied as a homestead, the house being located over the boundary line, and the entire tract does not exceed the homestead limit as to quantity, the land as a whole may be claimed as a homestead exempt from execution (161+515). Homestead, ☞87.

6961. No alienation without consent of spouse—Exceptions—

In general—It was error to receive as evidence of marriage a judgment in a former action to which defendant was not a party (128-525, 151+416). Judgment, ☞707.

Where a father conveyed land to his son, and the latter took possession with his wife, and lived on the land as a homestead, a judgment in an action against the son alone, decreeing a half interest in the land to plaintiff based on a former contract with the father, was a nullity, and passed no title to plaintiff (133-218, 158+250). Husband and Wife, ☞238(3).

Separate deeds—Estoppel—Though separate conveyances by husband and wife to the homestead are void, they may be estopped to deny the validity thereof. Where a wife separates from her husband, executes a separate deed to a purchaser from the husband of the homestead, and thereafter procures a divorce, the husband, who has surrendered possession to the purchaser, cannot assert, as against a subsequent bona fide purchaser, that his own separate deed is void, especially where he does not offer to return the purchase money received, or to reimburse his grantees for improvements (133-261, 158+244). Homestead, ☞122.

Deed as mortgage—An absolute deed of homestead owned by the husband, in which deed the wife joins, binds her homestead right for future advances made to the husband to secure which the deed is made (122-419, 142+721). Homestead, ☞118(1).

Deed reserving life estate—A warranty deed reserving a life estate in the grantor was void as to the homestead included in such conveyance, where the same was not signed by the grantor's wife (124-335, 144+1094). Homestead, ☞118(5).

Giving right of way for a road—An agreement by a husband, in which his wife does not join, and to which she does not assent, to give a town a right of way for a road across a tract which constitutes the homestead, is void. Evidence held insufficient to show assent by a