

Statutes
1878

THE
GENERAL STATUTES
OF THE
STATE OF MINNESOTA,

As Amended by Subsequent Legislation.

PREPARED BY
GEORGE B. YOUNG.

EDITED AND PUBLISHED UNDER THE AUTHORITY OF CHAPTER 67 OF THE LAWS
OF 1878, AND CHAPTER 67 OF THE LAWS OF 1879.

FOURTH EDITION.

WITH SUPPLEMENTS,
CONTAINING ALL THE GENERAL LAWS IN FORCE UP TO THE END OF
THE LEGISLATIVE SESSION OF 1883.

SAINT PAUL:
WEST PUBLISHING COMPANY.
1883.

CHAPTER LXVIII.

HOMESTEAD EXEMPTION.

SECTION.

1. What may be exempt as a homestead—rights of wife and children.

2. Mortgages and conveyances must be signed by wife—exception—mechanic's liens.

3-5. Homestead to be selected in case of levy—survey may be made—sale after survey.

SECTION.

6. Dwelling-house, without land, exempt, when.

7. No exemption from taxes.

8. Owner may remove or sell—judgments are not liens.

9. Six months' absence of owner—notice of claim to be recorded.

§ 1. What may be exempt as a homestead—rights of wife and children. A homestead, consisting of any quantity of land not exceeding eighty acres, and the dwelling-house thereon and its appurtenances, to be selected by the owner thereof, and not included in the laid-out or platted portion of any incorporated town, city or village, or, instead thereof, at the option of the owner, a quantity of land not exceeding in amount one lot, if within the laid-out or platted portion of any incorporated town, city or village having over five thousand inhabitants, or one half acre, if within the laid-out or platted portion of any incorporated town, city or village having less than five thousand inhabitants, and the dwelling-house thereon and its appurtenances, owned and occupied by any resident of this state, shall not be subject to attachment, levy or sale upon execution, or any other process issuing out of any court within this state. This section shall be deemed and construed to exempt such homestead, in the manner aforesaid, during the time it shall be occupied by the widow or minor child or children of any deceased person who was, when living, entitled to the benefits of this act. And whenever a married man shall abscond from the state, or desert his wife or minor children, the wife or minor children may continue to occupy such homestead, with the same right therein as any other owner of a homestead under the laws of the state; and that the same shall not be subject to levy or sale upon attachment, execution, or other final process issued against the said husband, or against the said wife, or against the said husband and wife: *provided*, they shall not have the right to sell or convey the said homestead. (As amended 1875, c. 66, § 1, and 1875, c. 65, § 1.)

3 M. 22 (53); 5 M. 264 (333); 7 M. 419 (513); 8 M. 272 (309); 10 M. 124 (154); *Cogel v. Mickow* 11 M. 354 (476); 12 M. 61; 15 M. 116; 16 M. 159; 21 M. 101, 107, 299; 22 M. 384; 23 M. 74, 435, 454.

§ 2. Mortgages and conveyances must be signed by wife—exception—mechanics' lien. Such exemption shall not extend to any mortgage thereon lawfully obtained; but such mortgage or other alienation of such land by the owner thereof, if a married man, shall not be valid without the signature of the wife to the same, unless such mortgage shall be given to secure the payment of the purchase-money, or some portion thereof.

And such exemption shall not extend to any contract for a lien, or upon which a lien would arise under the lien laws of this state, for work done or material furnished in the erection or repair of a dwelling-house or other building on said land. (As amended 1869, c. 26, § 1.)

Lanver v. Slingerland, 11 M. 330 (447); *Cogel v. Mickow*, 11 M. 354 (476); 15 M. 512; 21 M. 299; 22 M. 144; 23 M. 454.

§ 3. Homestead to be selected in case of levy. Whenever a levy shall be made upon the lands or tenements of a householder whose homestead has not been selected and set apart by metes and bounds, such householder may notify the officer, at the time of making such levy, of what he regards as his homestead, with a

description thereof, within the limits above prescribed; and the remainder alone shall be subject to sale under such levy.

10 M. 124 (154).

§ 4. **Same—survey may be made, when.** If the plaintiff in execution shall be dissatisfied with the quantity of land selected and set apart as aforesaid, the officer making the levy shall cause the same to be surveyed, beginning at a point to be designated by the owner, and set off, in a compact form, including the dwelling-house and its appurtenances, the amount specified in the first section of this act; and the expense of such survey shall be chargeable on the execution, and collected thereupon.

10 M. 124 (154).

§ 5. **Same—sale after survey.** After the survey shall have been made, the officer making the levy may sell the property levied upon, and not included in the set-off, in the same manner as provided in other cases for the sale of real estate on execution; and, in giving a deed of the same, he may describe it according to his original levy, excepting therefrom, by metes and bounds, according to the certificate of the survey, the quantity set off as aforesaid.

10 M. 124 (154).

§ 6. **Dwelling-house, without land, exempt, when.** Any person owning and occupying any house on land not his own, and claiming said house as a homestead, shall be entitled to the exemption aforesaid.

§ 7. **No exemption from taxes.** Nothing in this act shall be considered as exempting any real estate from taxation, or sale for taxes.

§ 8. **Exemption not lost by sale or removal—judgments are not liens.** The owner of a homestead under the laws of this state may remove therefrom, or sell and convey the same; and such removal, or sale and conveyance, shall not render such homestead liable or subject to forced sale on execution or other process hereafter issued on any judgment or decree of any court of this state, or of the district court of the United States for the state of Minnesota, against such owner; nor shall any judgment or decree of any such court be a lien on such homestead for any purpose whatever: *provided*, that this act shall not be so construed as in any manner to relate to judgments or decrees rendered on the foreclosure of mortgages, either equitable or legal. (1860, c. 95, § 1, Gen. St. p. 499.)

15 M. 116.

*§ 9. **Absence for more than six months—notice of claim to be recorded.** Whenever the owner of a homestead under the laws of this state shall remove therefrom, and cease to occupy the same as such homestead for a period of more than six consecutive months, his right to claim the same as such shall cease and determine on the expiration of such period of six months, unless, prior thereto, he shall file in the office of the register of deeds of the county wherein such homestead is situate, a notice by him subscribed, and acknowledged in the manner deeds are required by law to be acknowledged, particularly designating such homestead, and that he claims the same as such; and in no case shall his right to claim the same as a homestead continue for a longer period than five years from the filing of such notice, unless it has been accompanied, during some portion of said period, by an actual occupancy and residence thereon by him or his family. (1868, c. 58, § 1.)