

CHAPTER 647

CURATIVE ACTS

For the purpose of curing defects and validating titles and transactions, the legislature from time to time passes statutes validating acts, instruments, and records. It frequently incorporates in these acts limitation provisions, or enacts a separate limitation statute for the purpose of validating matters which cannot be legalized by a mere curative act. Such curative laws are constitutional if they do not deprive third parties of vested rights; are usually retroactive; except as modified by provisos, make valid ab initio the acts to which they relate; and usually relate to the validation of defects in acknowledgments, the assessment and collection of taxes, the levy of executions and sales thereunder, the execution and form of deeds, mortgages, judgments and sales; or the curing, ratifying or confirming of acts which were void when they were done.

To print all the curative acts in the general statutes would require additional volumes. Curative acts are indexed in Stalland's Minnesota curative acts, published in 1930. The table includes curative acts, limitation acts, and curative and limitation acts combined. The following, under our own analysis, is a digest index of curative acts, commencing with the legislative session of 1931. Thanks are tendered to Carroll G. Patton and Charles B. Howard for their assistance.

There is also appended a table of curative acts pertinent to the examination of real property titles; and an essay by Gerald T. Carroll entitled "The Validity of Curative Acts in Minnesota as they Affect Real Property."

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1. ACKNOWLEDGEMENTS

Laws	Chap.	Approved	Purpose of Act
Ex. 1933	8	Dec. 23, 1933	(of grantors taken in 1928 by one of the grantees.
Ex. 1935	52	Jan. 18, 1936	(conveyance lacking notarial seal and date of expiration.
1939	47	Mar. 4, 1939	(notary appointment void.
1939	147	Apr. 5, 1939	(power of attorney to foreclose. Omnibus bill.
1939	151	Apr. 8, 1939	(on executions and satisfactions of mortgages.
1943	211	Mar. 29, 1943	(notary acting from June 1, 1942 to Dec. 31, 1942 after expiration of commission.
1943	445	Apr. 4, 1943	(taken by officers in armed forces outside the United States.

2. ADMINISTRATORS, EXECUTORS, GUARDIANS

1933	394	Apr. 21, 1933	(action taken at premature hearing in probate court.
Ex. 1935	58	Jan. 21, 1936	(conveyance to administrator or others, wrong description.

3. ADOPTION, DECREE OF

1941	540	Apr. 28, 1941	(final decree of adoption.
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4. AERONAUTICS

1945	303	Apr. 16, 1945	(prior acquisition of property for airport.
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5. BONDS

1931	11	Feb. 13, 1931	(to fund floating debt, city of the fourth class. Home rule charter
1931	154	Apr. 13, 1931	(not submitted to voters.

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Laws	Chap.	Approved	Purpose of Act
1931	172	Apr. 16, 1931	(defective ordinance.
1931	10	Feb. 10, 1931	(issued by county board without vote of electors.
1931	80	Mar. 19, 1931	(completion of proceedings before county board.
1931	239	Apr. 20, 1931	(completion of proceedings before county board.
1933	150	Apr. 4, 1933	(purchased by state board of investment
Ex. 1933	17	Dec. 23, 1933	(for sale to federal government
Ex. 1933	18	Dec. 23, 1933	(special road bonds
1937	14	Feb. 5, 1937	(bridge bonds
1937	200	Apr. 12, 1937	(purchased by state investment board
Ex. 1937	23	July 14, 1937	(county may issue bonds to refund under (Laws 1937, Chapter 394
Ex. 1937	47	July 14, 1937	(validates certificates issued under (Laws 1937, Chapter 355

6. BONDS, MUNICIPAL

1931	203	Apr. 18, 1931	(purchased by the state board of investment
Ex. 1933	2	Dec. 20, 1933	(bonds of city of the first class to retire tax anticipation certificates
1933	37	Feb. 23, 1933	(cities of first class, issued under (Laws 1919, Chapter 41
1933	120	Mar. 27, 1933	(issued for poor relief
1933	131	Mar. 31, 1933	(issued for poor relief
Ex. 1933	12	Dec. 23, 1933	(cities of fourth class to secure (federal funds
Ex. 1933	13	Dec. 23, 1933	(sewage disposal plant
1935	8	Feb. 8, 1935	(village water-works
1935	53	Mar. 19, 1935	(cities of the third class
1935	58	Mar. 20, 1935	(improvement bonds
1935	59	Mar. 20, 1935	(independent school district
1935	83	Apr. 1, 1935	(construction village hall
1935	123	Apr. 5, 1935	(school district, non-compliance with statute
1935	125	Apr. 5, 1935	(under municipal emergency act for (federal projects
Ex. 1935	14	Jan. 13, 1936	(school bonds independent district
Ex. 1935	15	Jan. 13, 1936	(fourth class cities fire fighting (equipment bonds
Ex. 1935	24	Jan. 13, 1936	(village bonds for certain purposes
Ex. 1935	60	Jan. 21, 1936	(erection of school buildings in (fourth class cities
1937	47	Mar. 2, 1937	(validates where at election two (distinct purposes were voted on
1937	136	Apr. 2, 1937	(county to fund floating indebtedness
1937	277	Apr. 17, 1937	(village refunding bonds
1937	327	Apr. 21, 1937	(public works projects
1937	332	Apr. 21, 1937	(issued by cities of the fourth class
1937	378	Apr. 23, 1937	(certificates issued for sewer construction with federal aid
Ex. 1937	20	July 14, 1937	(laying of watermains in villages

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Laws	Chap.	Approved	Purpose of Act
Ex. 1937	66	July 15, 1937	(refundment bonds by villages
Ex. 1937	75	July 16, 1937	(street improvement certificates (city of the fourth class
1939	137	Apr. 4, 1939	(public utilities, cities and villages
1939	142	Apr. 4, 1939	(bonds and certificates in fourth class (cities
1941	3	July 30, 1941	(proceedings for funding bonds to cover (debts
1941	207	Apr. 10, 1941	(bond issues for money to cooperate with (W.P.A.
1941	225	Apr. 14, 1941	(county bridge bonds
7. CITIES			
1931	11	Feb. 13, 1931	(cities fourth class, home rule charter, (excess of 20 per cent floating debt, (bonds to fund
1931	145	Apr. 13, 1931	(city charter election
1931	154	Apr. 13, 1931	(issuance of bonds by city of fourth (class, home rule charter, without (submission to electorate
1931	172	Apr. 16, 1931	(issuance of bonds, city of fourth class, (home rule charter, defect in ordinance
1931	184	Apr. 18, 1931	(support of poor, city of fourth class, (home rule charter, valuation 14 million, (population 9,000, payment on
1931	317	Apr. 24, 1931	(city fourth class, home rule charter, (street improvement proceedings
1933	205	Apr. 10, 1933	(expenditure for acquiring land for (park purposes
Ex. 1933	2	Dec. 20, 1933	(tax anticipation certificates by city (of first class, and bonds to retire same
1935	5	Feb. 8, 1935	(issuance of certificates by cities of (the first class against permanent im- (provement revolving fund
1935	91	Apr. 1, 1935	(amendment home rule charter cities of (fourth class
1935	146	Apr. 11, 1935	(payments to retiring employees
1935	149	Apr. 11, 1935	(retirement payments validated
1935	247	Apr. 24, 1935	(payment of fire and police benefit
1935	286	Apr. 24, 1935	(rates changeable by public utilities, (cities of first class
Ex. 1935	45	Jan. 18, 1936	(ordinances fourth class cities; not (passed by aye and nay vote
1935	172	Apr. 13, 1935	(abolish certain bonds in city of the (second class
1939	20	Feb. 17, 1939	(cities fourth class, proceedings for (improvement of streets
1941	5	Jan. 31, 1941	(street improvement, city fourth class, (home rule charter
1941	23	Feb. 25, 1941	(sewer district bonds city fourth class
1941	50	Mar. 6, 1941	(bonds, watermains and sewers, cities (fourth class
1941	100	Mar. 28, 1941	(sewer certificates and warrants, cities (of the fourth class

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Laws	Chap.	Approved	Purpose of Act
1941	181	Apr. 10, 1941	(proceedings; construction of sewage system)
1943	19	Feb. 10, 1943	(airport bonds, city of fourth class)
1941	5	Jan. 31, 1941	(cities of fourth class, home rule charter, certificates for street improvement)
1943	218	Mar. 29, 1943	(proceedings taken for water and sewer project)
1943	492	Apr. 17, 1943	(moneys due Minnesota employees retirement association)
1945	203	Mar. 31, 1945	(cities of fourth class, bonds, certificates and warrants)
1945	407	Apr. 19, 1945	(sewer bonds, city of fourth class)

8. CIVIL PROCEDURE

1931	240	Apr. 20, 1931	(summons not delivered to proper officer (required by section 541.12 between (March 1, 1931 and April 25, 1931.
1935	357	Apr. 29, 1935	(court orders validated)
1941	223	Apr. 14, 1941	(St. Cloud municipal court, proceedings (under Laws 1935, Chapter 88, validated)

9. CONVEYANCES BY OR BETWEEN HUSBAND AND WIFE

1935	215	Apr. 18, 1935	(deed by spouse to spouse validated)
1937	31I	Apr. 21, 1937	(conveyance between spouses between (May 18, and May 22, 1908)
1937	429	Apr. 26, 1937	(separate deeds of homestead,
1941	343	Apr. 21, 1941	(legalizes prior to Dec. 29, 1921)
1943	26	Feb. 10, 1943	(prior to certain date)
1943	418	Apr. 13, 1943	(spouse acted as medium; transfer to (children)
1943	443	Apr. 14, 1943	(legalizing powers of attorney)

10. CONVEYANCES WITH RESERVATIONS

1931	361	Apr. 25, 1931	(right to use waters and right of way)
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11. CORPORATIONS, LEGALIZING

1931	46	Mar. 7, 1931	(cemetery associations under General (Statutes 1894, Title 2, Chapter 34)
1931	252	Apr. 20, 1931	(religious corporation, amend to comply (with section 315.31)
1933	104	Mar. 21, 1933	(corporation neglecting to file or (publish articles until after engaging (in business)
1933	258	Apr. 15, 1933	(legalizing defective extension (granted to insurance company insuring (creameries and cheese factories)
1935	248	Apr. 24, 1935	(validation of acts of)
1935	265	Apr. 24, 1935	(consolidation of religious corporations)
1941	128	Apr. 9, 1941	(transfers after termination of (corporate existence)
1941	147	Apr. 9, 1941	(contracts, and steps taken preliminary (to renewal of corporate existence of (agricultural society)

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Laws	Chap.	Approved	Purpose of Act
1941	174	Apr. 10, 1941	(acts of religious society who did not keep records or file certificates)
1941	180	Apr. 10, 1941	(acts of religious corporations on condition)
1941	314	Apr. 19, 1941	(acts of social and charitable corporations)
1941	315	Apr. 19, 1941	(renewal and validation, charitable corporation acts)
1943	50	Feb. 18, 1943	(contracts and proceedings of cooperative associations)
1943	51	Feb. 18, 1943	(contracts and proceedings of cooperative corporations)
1945	459	Apr. 21, 1945	(acts of cooperative associations)
12. CORPORATIONS, EXTENSION OF TIME TO CLOSE AFFAIRS			
1931	335	Apr. 24, 1931	(extension to close affairs)
1933	248	Apr. 15, 1933	(extension of time to close affairs)
1933	253	Apr. 15, 1933	(legalizing inoperative extension of time to close affairs)
1935	163	Apr. 13, 1935	(extension corporate existence)
1939	115	Mar. 31, 1939	(time for closing affairs extended)
1941	102	Mar. 28, 1941	(validating acts done after expiration corporate existence)
1941	104	Mar. 28, 1941	(extension of time, validation of acts, charitable corporation)
1943	88	Mar. 1, 1943	(extension, validation of acts)
1943	421	Apr. 13, 1943	(charitable corporations, extension and validation)
1945	379	Apr. 18, 1945	(transfers of property, time extended)
1945	569	Apr. 23, 1945	(authorizing a corporation to act after expiration of period of existence, and no renewal)
13. CORPORATIONS, RENEWAL OF CORPORATE EXISTENCE			
1931	107	Mar. 31, 1931	(renewal, ten years expiration, business and social)
1931	108	Mar. 31, 1931	(renewal, creamery association)
1931	149	Apr. 13, 1931	(renewal, cooperative)
1931	197	Apr. 18, 1931	(renewal, Township Mutual Insurance Co.)
1931	219	Apr. 20, 1931	(renewal, county fair association)
1931	241	Apr. 20, 1931	(renewal, cooperative creamery or cheese factory)
1933	40	Mar. 1, 1933	(renewal of corporate existence cooperative association)
1933	156	Apr. 5, 1933	(renewal of corporate existence, business or social)
1933	193	Apr. 10, 1933	(renewal of corporate existence)
1933	199	Apr. 10, 1933	(renewal of corporate existence, cooperative association)
Ex. 1933	11	Dec. 23, 1933	(authorizing renewal of cooperative existence, cooperative association)
Ex. 1933	48	Jan. 6, 1934	(renewal corporate existence of horticultural societies)

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Laws	Chap.	Approved	Purpose of Act
Ex. 1933	80	Jan. 9, 1934	(authorize renewal of corporate existence business and social corporations)
Ex. 1935	28	Jan. 15, 1936	(renewal of corporate existence of cooperative association)
Ex. 1935	30	Jan. 15, 1936	(renewal of corporate existence generally)
Ex. 1935	34	Jan. 18, 1936	(validates proceeding to renew)
Ex. 1935	85	Jan. 24, 1936	(renewal of corporate existence)
Ex. 1935	59	Jan. 21, 1936	(renewal of corporate existence)
1939	51	Mar. 7, 1939	(renewal corporate existence, cooperative association)
1939	123	Mar. 31, 1939	(renewal corporate existence, rural telephone companies)
1941	127	Apr. 19, 1941	(renewal corporate existence, private corporations)
1941	166	Apr. 10, 1941	(renewal of corporate existence cooperative association)
1941	167	Apr. 10, 1941	(renewal of corporate existence)
1943	400	Apr. 12, 1943	(renewal of corporate existence of society in existence for more than 50 years)
1943	17	Feb. 5, 1943	(renewal insurance corporation)
1943	401	Apr. 12, 1943	(renewal corporate existence, private corporation)
1943	463	Apr. 16, 1943	(authorization of renewal of charitable corporation)
1945	1	Jan. 10, 1945	(renewal of corporate existence, business corporation)
1945	88	Mar. 9, 1945	(renewal, insurance companies)
1945	186	Mar. 29, 1945	(fraternal insurance companies renewal)
1945	201	Mar. 31, 1945,	(renewal corporative existence)
1945	193	Mar. 31, 1945,	(renewal agricultural society)
1945	204	Mar. 31, 1945,	(renewal fireman's relief association)
1945	205	Mar. 31, 1945,	(renewal and corrections of defects cooperative association)
1945	375	Apr. 18, 1945	(cemetery associations)
1945	388	Apr. 18, 1945	(renewal existence of charitable corporation)

14. COUNTY BOARD, PROCEEDINGS BEFORE

1931	10	Feb. 10, 1931	(acts of county boards in issuance of bonds to fund floating indebtedness, no vote of electorate)
1931	25	Feb. 19, 1931	(payment salaries judge of probate and clerks)
1931	26	Feb. 20, 1931	(payment salaries members of county board)
1931	28	Feb. 26, 1931	(compensation, county treasurer)
1931	42	Mar. 6, 1931	(payment casualty insurance premiums (St. Louis county)
1931	45	Mar. 7, 1931	(compensation, member county board)
1931	80	Mar. 19, 1931	(bonds to fund floating indebtedness)
1931	103	Mar. 28, 1931	(salaries paid pursuant to Laws 1927, Chapter 383)

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Laws	Chap.	Approved	Purpose of Act
1931	110	Apr. 1, 1931	(salary county attorney and assistants
1931	135	Apr. 9, 1931	(salary members county board
1931	139	Apr. 9, 1931	(deputy register of deeds salary
1931	207	Apr. 18, 1931	(abatement of taxes account of hail losses
1931	239	Apr. 20, 1931	(completion of funding of floating indebtedness
1931	330	Apr. 24, 1931	(act of board indemnifying agents, and insuring officers and agents operation of motor vehicles
1933	43	Mar. 2, 1933	(poor fund overdrafts validated
1933	67	Mar. 9, 1933	(extermination of grasshoppers, payment validated
1933	68	Mar. 9, 1933	(salaries, members county board
1933	125	Mar. 28, 1933	(tax levies levied 1932
1933	145	Apr. 1, 1933	(validate town road aid certificates
1933	282	Apr. 15, 1933	(county warrants legalized
1933	282	Apr. 15, 1933	(transfer of funds legalized
1933	296	Apr. 17, 1933	(warrants validated
1933	371	Apr. 21, 1933	(claim of single commissioner legalized
Ex. 1933	25	Dec. 27, 1933	(appropriation for LacQui Parle project
Ex. 1933	65	Jan. 9, 1934	(to fund outstanding warrants
1933	207	Apr. 10, 1933	(transfer of road funds to ditch funds
1935	2	Jan. 17, 1935	(Hennepin county anticipation, certificates validated
1935	307	Apr. 29, 1935	(defraying expense of agency for aid of blind
1935	354	Apr. 29, 1935	(expenditure for poor relief
1937	201	Apr. 12, 1937	(expenditures for the poor
1937	300	Apr. 19, 1937	(salary payment
Ex. 1937	21	July 14, 1937	(salaries county board
Ex. 1937	22	July 14, 1937	(salary probate judge
Ex. 1937	33	July 14, 1937	(appointment of purchasing agent
Ex. 1937	63	July 15, 1937	(salary, members county board
1939	144	Apr. 4, 1939	(excessive tax levy
1941	3	Jan. 30, 1941	(legalizing county funding bonds
1941	99	Mar. 28, 1941	(federal commodity stamp plan
1941	224	Apr. 14, 1941	(county bridge bonds
1943	14	Feb. 5, 1943	(refunding bonded indebtedness
1943	35	Feb. 15, 1943	(funding of floating indebtedness
1943	182	Mar. 26, 1943	(employment purchasing agent
1943	213	Mar. 29, 1943	(funding bonded indebtedness
1943	219	Mar. 29, 1943	(disposition of fees
1943	243	Apr. 1, 1943	(transfer of gas tax funds to general revenue fund
1943	369	Apr. 9, 1943	(compensation of members county board
1943	376	Apr. 10, 1943	(county funds expended within city limits
1943	386	Apr. 10, 1943	(rent for farm security administration offices
1943	402	Apr. 12, 1943	(moneys paid to county board
1943	411	Apr. 12, 1943	(salaries various county offices
1945	276	Apr. 13, 1945	(proceedings county aid roads, and bonds therefor

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Laws	Chap.	Approved	Purpose of Act
1945	299	Apr. 14, 1945	(refundment bonds legalized
1945	329	Apr. 16, 1945	(salaries of county treasurers
1945	515	Apr. 23, 1945	(payments to probate judges under (unconstitutional act
1945	525	Apr. 23, 1945	(payments to county attorneys
1945	526	Apr. 23, 1945	(compensation to members county board
15. COURTS			
1941	223	Apr. 14, 1941	(legalizing proceedings before (St. Cloud municipal court
16. DEEDS			
1941	340	Apr. 21, 1941	(executed in foreign country before (judicial officer
17. DRAINAGE			
1933	243	Apr. 13, 1933	(changes in county ditch system
1937	98	Mar. 21, 1937	(proceedings completed prior to date of (act
Ex. 1937	48	July 14, 1937	(expenditures on Lac qui Parle project
1941	174	Apr. 10, 1941	(assessment and liens to cover drainage (deficit
18. ELECTIONS			
1931	145	Apr. 13, 1931	(city charter election
19. LEGAL PUBLICATION			
1933	4	Jan. 11, 1933	(newspaper missed one weekly issue
20. LIS PENDENS			
1939	344	Apr. 20, 1939	(judgment and decree service by publi- (cation, lis pendens not filed
21. MORTGAGES			
1931	173	Apr. 16, 1931	(registration tax not paid
1931	230	Apr. 20, 1931	(to trustees of a school district
1935	73	Jan. 24, 1936	(validates satisfaction executed by (one partner
1943	444	Apr. 14, 1943	(assignment of certain mortgages and (certain conveyances of land
22. MORTGAGE FORECLOSURES			
1931	198	Apr. 18, 1931	(notice not filed with register of deeds
1931	199	Apr. 18, 1931	(fixing place of sale at wrong place
1933	90	Mar. 6, 1933	(postponement of sale
Ex. 1933	26	Dec. 27, 1933	(curing omission of "the" in name of (banking corporation in powers of (attorney
Ex. 1933	42	Jan. 5, 1934	(power of attorney not executed or (filed prior to sale under power

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Laws	Chap.	Approved	Purpose of Act
1937	108	Mar. 25, 1937	(taking title without foreclosure or trustee bidding in at sale)
1943	142	Mar. 16, 1943	(legalizing sales)
23. MORTGAGE FORECLOSURES, SALES, OMNIBUS ACTS			
1931	237	Apr. 20, 1931	(1931 omnibus act)
1933	437	Apr. 22, 1933	(1933 omnibus act)
1935	287	Apr. 24, 1935	(1935 omnibus act)
Ex. 1935	33	Jan. 15, 1936	(omnibus act)
Ex. 1935	51	Jan. 18, 1936	(omnibus act)
Ex. 1935	92	Jan. 24, 1936	(omnibus act)
1937	432	Apr. 26, 1937	(omnibus act)
Ex. 1937	35	July 14, 1937	(omnibus act)
1939	147	Apr. 5, 1939	(omnibus act)
1941	305	Apr. 18, 1941	(omnibus act)
1945	331	Apr. 16, 1945	(omnibus act)
24. PLATS			
1931	319	Apr. 24, 1931	(defect in description and execution of purported plat, exception)
1933	188	Apr. 10, 1933	(recording of corrected and supplementary plats)
1941	46	Mar. 6, 1941	(vacation of streets and alleys)
25. POWER OF ATTORNEY			
1937	350	Apr. 22, 1937	(defective power dated between June 20 and July 26, 1929)
1939	147	Apr. 5, 1939	(foreclosures, of mortgage, omnibus bill)
26. PROBATE PROCEEDINGS			
1941	379	Mar. 28, 1941	(notice not mailed to each heir)
27. PROCLAMATION			
1933	56	Mar. 6, 1933	(legalizing bank holiday)
28. RECEIVERS AND TRUSTEES			
1935	41	Mar. 12, 1935	(validation of conveyance of foreign receivers)
29. RECORDING			
1937	241	Apr. 17, 1937	(instrument not entitled to record, but of record six years)
30. REGISTRATION OF TITLE			
Ex. 1937	94	July 24, 1937	(conveyance in accordance with contract not entered on register)
31. RELIEF, COMMITMENTS LEGALIZED			
1945	308	Apr. 16, 1945	(bonds for relief issued by any state subdivision)
32. SCHOOL DISTRICTS			
1931	38	Mar. 6, 1931	(payment of state aid to school district, ten or more townships)

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Laws	Chap.	Approved	Purpose of Act
1931	42	Mar. 6, 1931	(insurance and reimbursement of (employee of county school district. (St. Louis county for automobile (casualty loss
1933	227	Apr. 13, 1933	(bonds of dissolved districts
1935	15	Feb. 16, 1935	(payment premiums liability policies
1935	181	Apr. 15, 1935	(school bonds in unorganized territory
1935	296	Apr. 25, 1935	(operating summer schools
1937	363	Apr. 22, 1937	(independent district, addition to (school house, bonds
1937	2	Jan. 28, 1937	(bonds for certain districts
1939	98	Mar. 31, 1939	(bonds special school district fourth (class cities
1939	134	Apr. 1, 1939	(school district bonds for gymnasium (and auditorium
1941	113	Apr. 1, 1941	(floating indebtedness bonds
1941	263	Apr. 16, 1941	(bonds of independent district
1943	406	Apr. 12, 1943	(sale of buildings by county board of (education
1945	217	Apr. 2, 1945	(election, members of school board

33. SHERIFF

1931	260	Apr. 20, 1931	(functions performed by persons not (legally entitled
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34. STATE AGENCIES, ACTS OF

Ex. 1935	5	Jan. 11, 1936	(proceedings under Laws 1935, Chapter (383, legalized and ratified
1937	146	Apr. 5, 1937	(expenditures state board of dental (examiners
1943	353	Apr. 9, 1943	(conveyance by president Winona (teachers college
1943	466	1943	(motor vehicle number plates

35. STATE LANDS, SALE OF

1931	21	Feb. 19, 1931	(land located within state forest
1935	244	Apr. 24, 1935	(non-compliance with section 92.14
1937	84	Mar. 23, 1937	(state patents to persons deceased
1941	374	Apr. 22, 1941	(legalizing and permitting sale of (betterments
1943	332	Apr. 7, 1943	(conveyance by state auditor

36. STREET IMPROVEMENT

1931	317	Apr. 24, 1931	(city fourth class, home rule charter
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37. TAXES

1931	207	Apr. 18, 1931	(act of county board in abatement of (taxes account of hail losses
1933	125	Mar. 28, 1933	(tax levies in 1932 validated
1937	16	Feb. 5, 1937	(relief from penalties and legalizes (irregular payment of inheritance tax
1937	260	Apr. 17, 1937	(excessive town tax levy

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Laws	Chap.	Approved	Purpose of Act
Ex. 1937	1	June 7, 1937	(payments made June 1, 1937 without penalty)
1939	144	Apr. 4, 1939	(county, excessive tax levy)
1939	370	Apr. 21, 1939	(publication delinquent real estate tax list)
1943	64	Feb. 25, 1943	(tax levies for county revenue purposes)
1943	183	Mar. 26, 1943	(tax levies, county, town and state purposes)
1943	239	Apr. 1, 1943	(payments under confession of judgment on repurchase)
1943	467	Apr. 16, 1943	(real estate tax judgment validated)

38. TAX SALES

1931	158	Apr. 13, 1931	(correct amount due not stated in notice to redeem)
1931	325	Apr. 24, 1931	(sale made on wrong day)
1935	258	Apr. 24, 1935	(unconstitutional act)
1935	277	Apr. 24, 1935	(defect in notice of expiration)
Ex. 1935	77	Jan. 24, 1936	(validates tax deeds prior to 1867)
1939	237	Apr. 13, 1939	(insufficient notice, expiration redemption period)
1939	295	Apr. 17, 1939	(proceedings under Laws 1939, Chapter 295, Section 1)
1943	239	Apr. 1, 1943	(more than one forfeiture sale in year)
1943	37	Feb. 15, 1943	(of tax-forfeited lands)
1943	239	Apr. 1, 1943	(of tax-forfeited lands)
1943	535	Apr. 20, 1943	(repurchase of tax-forfeited lands)
1945	466	Apr. 21, 1945	(deductions by county auditors relating to tax-forfeited land sales in conservation areas)
1945	505	Apr. 23, 1945	(reinstatement, repurchase of tax-forfeited lands)

39. TOWNS

1931	197	Apr. 18, 1931	(renewal town mutual insurance company)
1933	67	Mar. 9, 1933	(payments for exterminating grass hoppers)
1933	145	Apr. 1, 1933	(validates town road aid certificates)
1933	159	Apr. 5, 1933	(payments for road engineering services)
1933	176	Apr. 8, 1933	(payments, portable and circulating libraries)
1933	188	Apr. 10, 1933	(correction of errors in recorded plats)
1935	360	Apr. 29, 1935	(expenditures during 1934)
1935	354	Apr. 29, 1935	(expenditures for poor)
1937	20	Apr. 12, 1937	(expenditures for poor)
1937	260	Apr. 17, 1937	(excessive tax levy)
Ex. 1937	24	July 14, 1937	(vacation of town roads)
1941	225	Apr. 14, 1941	(validating contracts and bonds,
1941	446	Apr. 25, 1941	(sewers and sewage disposal plants contracts and expenditures)
1941	447	Apr. 25, 1941	(cash basis act, validating past proceedings)
1943	80	Feb. 25, 1943	(legalizing town warrants of towns dissolved)

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Laws	Chap.	Approved	Purpose of Act
1943	168	Mar. 22, 1943	(town, village and city expenditures, (for selective service boards
40. VACATION OF STREETS AND ALLEYS			
1941	46	Mar. 6, 1941	(vacation as shown by plat
41. VILLAGES			
1933	155	Apr. 4, 1933	(extension of power lines beyond village (limits prior to 1932
1935	360	Apr. 29, 1935	(expenditures during 1934
1937	23	Feb. 13, 1937	(sanitary sewers and disposal plants
1937	181	Apr. 8, 1937	(validating warrants issued under (Ex. 1935, Chapter 2
1937	231	Apr. 14, 1937	(validates expenditures for sewers
1937	356	Apr. 22, 1937	(expenditures prior to cash basis
1937	392	Apr. 24, 1937	(contracts for power plant
1937	405	Apr. 24, 1937	(payments, construction of sewers
Ex. 1937	36	July 14, 1937	(construction sewers and water-mains
1939	25	Feb. 18, 1939	(park warrants and obligations
1939	179	Apr. 8, 1939	(purchase of fire truck
1941	6	Feb. 13, 1941	(bonds for street improvement
1941	41	Mar. 5, 1941	(sewage disposal contracts
1941	119	Apr. 4, 1941	(certificates for purchase of utilities
1941	181	Apr. 10, 1941	(construction of sewage system
1941	312	Apr. 18, 1941	(bonds, municipal water works
1941	319	Apr. 19, 1941	(proceedings, construction of sewer (treatment plant
1941	89	Mar. 28, 1941	(proceedings, construction water work (plant
1941	146	Apr. 9, 1941	(acts funding and refunding indebtedness
1941	207	Apr. 10, 1941	(proceedings, sewage disposal plant
1941	233	Apr. 15, 1941	(villages and cities of fourth class (improvements, proceedings validated
1941	312	Apr. 18, 1941	(municipal water works
1941	420	Apr. 24, 1941	(bonds in purchase of utilities
1943	4	Jan. 22, 1943	(improvement of streets
1943	21	Feb. 10, 1943	(light, water, power and building com- (mission, issuance of bonds
1943	264	Apr. 1, 1943	(funding floating indebtedness
1943	407	Apr. 12, 1943	(salaries of officials
42. UNIVERSITY OF MINNESOTA			
1935	173	Apr. 15, 1935	(payments, casualty insurance validated
43. WILLS			
1931	259	Apr. 20, 1931	(holographic wills executed between (March 29, 1927 and March 31, 1927
1933	394	Apr. 21, 1933	(premature hearing on proof of will, (after notice

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CURATIVE ACTS PERTINENT TO THE EXAMINATION OF REAL PROPERTY TITLES

ACKNOWLEDGMENTS

Session Laws	Chapter	Page	Effective	Note
1935 (SS)	52	74	1-18-1936	Seal omitted or illegible
1935 (SS)	109	153	1-27-1936	Seal omitted or illegible
1939	47	70	4-18-32 to 3-4-39	Validated though notary not a citizen
1941	340			Taken in foreign countries
1943	211			Taken after term expires
1943	95			
	445			Parties in military service

AFFIDAVITS

1931	209	234		Identification, marital status, relation, death, time of death
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ALIENATION

1937	487	851	4-26-1937	Allowed as to rights of re-entry and possibilities of reverter
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CANCELLATION OF CONTRACTS

1931	173	195	4-16-1931	Mtge. reg. tax
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CORPORATIONS AND CORPORATE CONVEYANCES

1937	295	387	4-19-1937	Church deeds prior to 1-1-31 need no record of authority
1937	429	624	4-26-1937	Deeds lacking seal validated
1939	14	34		Renewal of expired charters
	16	35		Renewal of expired charters
	51	74		Renewal of expired charters
1931	335	424		Existence extended to wind up business
1935	73	168		Existence extended to wind up business
1935 (SS)	34	51		Renewals validated
1935	59	79		Existence extended and renewed
1937	242	227		Existence extended and renewed
1939	115	175		Existence extended and renewed
1941	Index	1655		Existence extended and renewed
1937	295	387	4-19-1937	Deeds prior to Jan. 1, 1931, by trustees of religious corporations with no church record of authority
1937	429	624	4-26-1937	Validates deeds lacking seal
1939	14	34		Provisions for renewal of dead corp.
1939	16	35		Provisions for renewal of dead corp.
1939	51	74		Provisions for renewal of dead corp.
1931	335	424		Corporate existence extended to wind up business
1935	73	168		Corporate existence extended to wind up business
1935 (SS)	34	51		Corporate existence renewal validated

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Session Laws	Chapter	Page	Effective	Note
1935 (SS)	59	79		Corporate existence extended renewed
1937	240	327		Corporate existence extended renewed
1939	115	175		Corporate existence extended renewed

DECREES

1939	344	529		Decrees prior to 2-8-21 without recording lis pendens-validated
1941	79			Decree of distribution without notice

DESCRIPTIONS

1935	58	78	1-21-1936	Discrepancy-court order and probate deed
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DOWER AND CURTESY

1939	152	219		Jan. 1, 1920 instead of above 1-1-1910 Dec. 1, 1939 instead of above 12-1-1925
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DRAINAGE PROCEEDINGS

1935	334	613	4-29-1935	Joint tenancies, inheritance tax
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MECHANICS LIENS

1933	362			Bars lien 1 yr. after completion of im- provement unless lis pendens is of rec- ord within the year
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MORTGAGES AND MORTGAGE FORECLOSURE SALES

1941	305 s. 8	593		Power of attorney not given Sales prior to Jan. 1, 1930, 1933
1931	199	222		Place of sale—discrepancy between notice & certificate
1933	44	46		Postponement without notice
1935 (SS)	51	73		Lands in 2 or more counties
1935	92	116		P.A. lacking corporate seal
1937	108	172		Sale to trustees—how they may acquire a P/S
1937 (SS)	35	49		P.A. recorded late; notice omitting date of registration
1933	437	867		52 defects cured
1935	287	515		Same in better form
1935 (SS)	33	46		Same with additions
1937	432	628		Same with additions
1939	147	208		Same with additions
1941	305	586		Same with additions
1943	142			Same with additions

NOTICE

1939	390	733		No notice of mtge. from recitals in rec- ords before 1900
1939	318			No notice of mtge. from recitals that grantee is trustee

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Session Laws	Chapter	Page	Effective	Note
1941	192	396		No notice of mtge. from recitals of c/o in record before 1910
1943	180			No notice of mtge. in records prior to 1921

PATENTS BY STATE

1937	84	147	3-23-1937	To estate of dec'd person validated
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POWER OF ATTORNEY

1943	443			Spouse to spouse prior to 1916
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RECEIVERSHIP SALES

1935	41	43	3-12-1935	Deeds of foreign receiver validated
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STATE LANDS

1937	84	147	3-23-1937	Patent to estate of decedent validated
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VACATION PROCEEDINGS

1941	46			
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HOMESTEAD DEEDS

1937	429	624	4-26-1937	Validates separate deeds by h. & w.
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HUSBAND CONVEYING DIRECT TO WIFE AND WIFE TO HUSBAND

1935	215	403	4-18-1935	Spouse to spouse during preceding 6 years
1941	343	636		Husband to wife prior to 12-29-26
1943	26 & 418			Spouse to spouse prior to 2-10-43

PATENTS

1937	84	147	3-23-1937	To estate of a decedent-validated
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TAX SALE

1941	399	748		Re-enacting Mason's 2169, 2170 as to period for serving ex notice & recording
	428	791		Repeals act limiting period to attack t.y.

RECORD

1937	241	326	4-17-1937	All instruments of record for 6 years
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RECORDER, instrument not having seal of attached

1935	77	99		Tax deed recorded prior to 1867
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WITNESS, only one

1937	241	326	4-17-1937	All inst.
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WILLS

1931	259	292		Holographic wills 3-29-27 to 3-31-27
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TAX ON SURVIVING JOINT TENANT'S ESTATE

1935	334	613	4-29-1935	Inheritance tax
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THE VALIDITY OF CURATIVE ACTS
IN MINNESOTA
AS THEY AFFECT REAL PROPERTY

By Gerald T. Carroll
of the
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The subject of Curative Acts is a broad one, and the validity and effect of Curative Acts have been discussed by our courts in many decisions. A Curative Act is defined as an act intended to give legal effect to a past act ineffective because of noncompliance with legal requirements. It is generally held that subject to constitutional limitations, the Legislature may cure irregularities in past proceedings not extending to jurisdiction and may ratify and validate acts which it could have authorized in advance and may still authorize, or it may ratify and cure what it could in the first instance have dispensed with. It cannot validate void proceedings.

Embodied in the idea of curative acts is the notion of an existing law under which some person, public or private, individual or corporate, has proceeded to do some legal act. Subsequently it is found that a mistake was made. Some document has been improperly made out or there has been some error in procedure. To remedy this, there has grown up a practice of having the Legislature pass curative acts to give legal effect to the acts performed in such cases. In the absence of prohibition against special legislation, curative acts have generally been sustained by the court as constitutional, despite attempts to demonstrate that they violated the due process clause or the contract clause or even the equal protection clause. Curative acts generally begin by describing the acts to be cured and the class of persons by whom they were committed. They sometimes state the time during which the acts occurred and close with a statement validating the acts despite any defects in procedure. Classification is based upon some event in the past and involves a time limitation, and the purpose being remedial it has been held that such acts may be properly considered general and constitutional for the purposes at which they are aimed.

A Curative Act is distinguished from a statute of limitations in that a Curative Act is one enacted to cure past irregularities which are not jurisdictional, and a limitation act is an act to bar any right, however high the source from which it may be deduced. See *Dunkum v Maceck Building Corp.* 256 NY 275, 176 NE 392.

A Curative Act is void if it attempts to impair vested rights or to validate or confirm what the Legislature could not originally have authorized. It is generally held that the Legislature has no power to validate void proceedings, but owing to the use of the terms "void" and "voidable" in some decisions, some difficulty may be experienced by the lawyer endeavoring to apply a curative act to a specific defect.

The definition of vested rights, which is generally recognized, is that rights are vested when the right to enjoyment has become the property of some particular person or persons as a present interest independent of a contingency.

The Minnesota Court states in *Snortum v Snortum*, 155 M 230, at Page 233:

- "Under the decisions of this state the word 'vested' has a well understood meaning. It is used to define an estate either present or future, the title to which has become established in some person or persons and is no longer subject to any contingency. The phrase 'vested right' or a 'vested interest' used in other relations, may, with reasonable precision, be held to mean some right or interest in property which has become vested or established."

As illustrations of what vested rights are, it has been held that the owner of land has a vested right to its lateral support. In *re* Rapid Transit Railroad Commissioners, 197 NY 81.

An estate in remainder or reversion is vested from the time the right or title to it is fixed. In *re* Pell, 171 NY 48.

Where a right or title has once been acquired by adverse possession, it is a vested right and it cannot be taken away either by the repeal of the statute limiting the time within which a suit for recovery of the premises is barred, or by which a change in the requirements necessary to constitute adverse possession. *Campbell v Holt*, 115 US 620; *Kennebeck v Laboree*, 2 Me. 275.

One of the leading cases on curative acts in this state is *Farnsworth Loan & Realty Co. v Commonwealth Title Insurance & Trust Company*, 84 M 62. In this case plaintiff brought an action to recover certain costs and expenses incurred in the foreclosure of a real estate mortgage on the grounds that the affidavit of costs and disbursements had not been filed within the time limited by statute. The action was commenced six years after the completion of the foreclosure. By Laws of 1895, Chapter 308, all affidavits of costs and disbursements in mortgage foreclosure proceedings theretofore had, which were not filed and recorded within the time limited by the existing law, but were subsequently filed, were legalized and made as effectual in all respects as though filed and recorded within proper time. The majority opinion in this case in upholding the validity of the curative statute says:

"A person has no vested right in a defense or cause of action based upon an informality not affecting his substantial equities, and a retroactive statute curing defects which are mere irregularities, and do not extend to matters of jurisdiction, is not void on constitutional grounds."

Further in the decision they say:

"The failure of the mortgagee to file a proper affidavit was, at most, an irregularity not affecting the substantial or equitable rights of the mortgagor."

The minority opinion, with two judges dissenting, considered the curative act invalid on the grounds that it took away a vested right. Judge Lewis in his dissenting opinion says:

"The conclusion of the court is based upon the premise that at the time of the passage of the curative act the mortgagor had not acquired a vested right. If this premise is false, then it follows that the reasoning thereunder is false."

Judge Start in his dissenting opinion, referring to *Perkins v Stewart*, 75 M 21, and *Lowry v Mayo*, 41 M 388, says:

"In the last case cited (that is, *Lowry v Mayo*) . . . The foreclosure of the mortgage was void because the statute required that the assignment be recorded before the mortgage could be foreclosed. It is to be noted that this requirement was one which the Legislature might have originally dispensed with, yet it was held that a subsequent curative statute could not validate the record of the assignment, so as to give validity to the prior foreclosure."

The court, in the *Farnsworth* case, could not agree as to whether the defect which the Legislature sought to cure was jurisdictional; the majority holding that it was not jurisdictional, the minority holding that it was. Throughout the decisions on curative acts, this is one of the important tests to be applied. However, a reading of the cases does not by any means make clear what the courts consider as jurisdictional and what they consider as mere irregularities. Illustrative of this is the case of *Snortum v Snortum*, 155 M 530, which is also illustrative of the difficulty of determining what the court means by its use of the words "void" and "voidable." In this case, in 1880, Ole K. Snortum was the owner of a farm of 120 acres on which he resided with his wife. In October, 1880, they executed a deed conveying the property to Andrew A. Oleson, and in September 1882 Oleson reconveyed the farm to Isabel A. Snortum. These conveyances were recorded at about the time of their execution. On February 8, 1890, the wife, Isabel A. executed a warranty deed to the premises direct to her husband, which he held off recording until January 23, 1914. In March 1890, 42 days after the execution of the deed to her husband, Isabel A. died. In 1920 Ernest Snortum, one of the children, filed a petition for determination of descent of land in question, claiming it belonged to his mother's estate and that he was entitled to an interest therein.

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The appellant, the husband, filed an answer claiming title to ownership of premises. The court decreed the property as follows: The eighty acre homestead to Ole Snortum for life with remainder to the children; and an undivided one-third of the forty in fee simple to Ole Snortum; and the remainder in undivided portions to the children. At the time the deed from wife to husband was given, Section 4, Chapter 69, Laws of 1878, was in effect, which read:

"No contract between husband and wife, the one to the other, relative to the real estate of either, or any interest therein, shall be valid, nor shall any power of attorney or other authority from the one to the other to convey real estate or any interest therein, be of any force."

The husband claimed that in spite of that statute, the Curative Act, Chapter 218, page 319, Laws of 1915, which in effect provided that all conveyances of real estate within the state made prior to the first of January 1915, by a married man or woman direct to his or her spouse, were legalized, made his title good. The court, in considering the matter, says on page 233:

"In the instant case the deed from wife to husband, under the foregoing holdings, is a mere nullity and conveyed nothing."

And further on page 234 says:

"The respondents thus acquiring a vested right in the real property of the intestate, the Legislature has no power to deprive them of such right by a curative statute. The validity of such an act to render a conveyance enforceable, which but for such legislation would be nonenforceable, depends upon whether vested rights are to be destroyed."

The conclusion in this case is unquestionably a proper one, but the language that the deed from the wife to the husband was a mere nullity, if taken at its face value, would prohibit the Legislature from ever curing such a conveyance, for it is admitted that the Legislature cannot by curative act cure a transaction which is void in its inception. In the case of *Wistar v Foster*, 46 M 484, arising under another section of the same statute considered by the court in *Snortum v Snortum*, or Section 2, Chapter 69, Laws of 1878, which reads in part:

"No conveyance or contract for sale of real estate or any interest therein by a married woman shall be valid unless her husband shall join with her in such conveyance,"

which is the exact language of Subdivision 4 as to validity. The court considering this case did not use the word "void." In this case, which was an action to determine adverse claims, the plaintiff claimed title by a deed from Mrs. Foster in 1885. Subsequently she obtained a decree of divorce from her husband in 1887, which decree was admittedly void because the court had no jurisdiction to enter it. By Laws of 1889, Chapter 103, an amendment to Laws of 1878, Chapter 69, Section 2, was passed, which provided that any deed made in good faith and for a valuable consideration by an adult woman, without any husband having joined therein, but after judgment of any district court of this state, remaining in full force, adjudging the nullity of her marriage, or granting her a divorce from bonds of matrimony or from bed and board, shall be as valid and effectual, to all intents and purposes, as if she had never been married, any defect in the service of the summons or complaint in the action for such relief or divorce to the contrary notwithstanding. The court in that case said:

"It is clear that the legislature might, in the first instance, have clothed married women with the power to convey their separate real estate without any conditions or restrictions, as if unmarried; and, where there is no constitutional provision prohibiting retrospective legislation, it is a well-settled rule that whatever the legislature might have dispensed with in advance it may dispense with retrospectively, by enacting that its omission shall not prejudice. * * *

"If the legislature may validate the sole deeds of married women generally as between the parties, and cut off the inchoate rights of their husbands in their separate property, we are unable to see why such enactments may not in like manner be made applicable to a particular class where the facts present special equitable grounds for such interference. We think the statute is valid, and is applicable to this case."

Evidently in this case the Supreme Court regarded the words "not valid" in the statutes as constituting a "voidable" instead of a "void" conveyance.

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In the case of *McCord v Sullivan*, 85 M 344, which was an action to quiet title to certain land, the plaintiff claiming that a tax sale under which defendant claimed was wholly invalid because of the failure of the County Auditor to comply with Section 1591 of General Statutes of 1894, in the giving of notice. The defendant conceded that proper notice had not been given, but contended that the failure in this respect was an irregularity which was cured by Chapter 105, Laws of 1901, which attempted to cure the failure to give sufficient notice. In this case the court says:

"This brings us to the question of the validity of Laws 1901, Chapter 105. Statutes of this character have been before the courts many times, and the subject as to their validity is fully discussed in *Cooley*, Const. Lim. (5th Ed.) 458. It is there laid down as a general rule that 'If the thing wanting, or which failed to be done, and which constitutes the defect in the proceedings, is something the necessity for which the legislature might have dispensed with by prior statute, then it is not beyond the power of the legislature to dispense with it by subsequent statute.'"

Our court goes on to say:

"This, however, does not authorize the passage of healing statutes curing jurisdictional defects whereby vested rights may be taken away. * * * Under our decisions, no title or estate vested in the purchaser at the tax sale in question, because of the failure to give the necessary notice. The effect of the act of the legislature, if sustained, will be to infuse life and validity into that which without its aid is wholly void. This the legislature has not the constitutional power to do."

It would seem that the Legislature might have changed the requirement of publication and have shortened it to the time in which this notice was actually published. If so, then the failure to publish for the longer time admitted by the decisions could have been cured by a curative act for it is something that the Legislature might have dispensed with in the first instance. However, in the *McCord* case, the court adopted the attitude that the failure to publish for the required statutory length of time was jurisdictional and could not be cured by the Legislature, as the tax title based thereon was void instead of voidable. Here again the court uses the test of jurisdiction to determine the validity of the curative act.

Another case in Minnesota illustrating the confusion caused by the use of the words "void" and "voidable," is the case of *Fuller v Mohawk Fire Insurance Company*, 245 NW 617. In this case plaintiff Fuller owned premises subject to a mortgage to one Margaret L. Fuller. The mortgage was foreclosed by advertisement and sale made on November 20, 1928. Period of redemption expired on November 20, 1929. Five months subsequent to said foreclosure, the Legislature passed Chapter 378, Laws of 1929, which is the so-called "Omnibus Act," curing many defects and irregularities in foreclosure proceedings. On December 25, 1929, or approximately one month after the period of redemption had expired, the dwelling on the property was entirely destroyed by fire. The plaintiff brought this action against the insurance company to collect thereon. The defense of the insurance company was that the plaintiff had no insurable interest in the property, having lost his title by foreclosure. Plaintiff by his reply pleaded that the mortgage sale was illegal and void, and in 1931 a judgment was duly entered in Hennepin County District Court decreeing the mortgage foreclosure sale and the Sheriff's Certificate issued thereon null and void. The court in this case held that Chapter 378 of Laws of 1929 was unconstitutional in that it took away a vested right. In that decision our Supreme Court uses the following language:

"It is conceded that the foreclosure sale in question was void at its inception, because of failure to publish the notice thereof for the statutory length of time."

This statement by the Supreme Court does not agree with its former statement in *McCord v Sullivan*, as to what can and cannot be cured by legislative act. Further the court goes on to say:

"The act is not a statute of limitations. Its title is 'an act to legalize mortgage foreclosure sales heretofore made.' The provision that the act shall not apply to actions or proceedings pending or commenced before July 1, 1929, in any state court, does not aid defendant."

The 1939 Legislature passed an "Omnibus Act," Chapter 147, Laws of 1939, which cures exactly the same defect as was cured by Chapter 378, Laws of 1929. In addition, however, to the provision that it should not affect any action or proceeding then pending, the Act reads as follows:

"The provisions of this act shall not affect any action or proceeding now pending or which shall be commenced within six months after the passage thereof, in any of the courts of this state involving the validity of such foreclosure, nor shall the validity of any provision of this act be questioned in any action or proceeding hereafter brought unless such action or proceeding be commenced within six months after the passage of this act."

The question then arises, would the Supreme Court, had Chapter 378, Laws of 1929, contained the same provision or limitation contained in Chapter 147, Laws of 1939, have decided the Mohawk case as it did decide it. The foreclosure sale in question was void, then it is beyond the power of the legislature to cure it. In *Risch v Jensen*, 92 M 107, the court sustains a curative act which cures the exact defect involved in the Fuller-Mohawk case, the failure to publish the notice for full six weeks, there had, however, in the *Risch v Jensen* case been a lapse of many years and the court held that the curative acts were a bar at that time from questioning the validity of the sale, so the court must have adopted the theory that the sale was voidable and not void.

From a reading of the decisions it would appear that the test to apply to a curative act in order to determine its validity is: Does the irregularity attempted to be cured go to the jurisdiction of the proceedings? If not, were vested rights affected by the curative act? If the irregularities attempted to be cured were jurisdictional, then the Legislature had no power to pass the act since the proceeding that it sought to cure was void. However, if the matter which the Legislature sought to cure was a mere irregularity not going to the jurisdiction, the Legislature has the power to cure it and the act is valid, where no vested right is disturbed thereby. In some instances the test is easy to apply, as in the case of a vested right being clearly divested by operation of the curative act. Illustrative of this is the case of *Caley v Thornquist*, 89 M 348. In this case an action was brought by a landlord against his tenant on a lease made in January 1900. The lease contained the clause:

"It is understood and agreed that the said lessee may renew this lease at its expiration for the term of two years from February 1, 1901, on the same terms herein contained, if lessee so desires."

The lessee held over and the lessor accepted the rent. In 1901, two months after the termination of the first year and after the lessor had accepted the rent, the Legislature passed Chapter 31 of Laws of 1901, in effect holding that the retention of the premises or holding over by the lessee or tenant after the expiration of the lease should not concede by implication or otherwise, a contract for tenancy for leasing of said property. The court in this case held that the renewal of the lease had been legally effected by the election of the lessee to exercise his option, with the concurrence of the lessor therein by receiving the rent, and that this executed the contract to renew and establish vested rights, which could not be impaired through legislative action. The holding in this case is undoubtedly the proper one, as the court based its decision solely on the inability of the legislature to impair vested rights. In other cases the test is very difficult to apply to any specific case, as shown by the case of *McCord v Sullivan*, and the case of *Lowry v Mayo* reported in 41 M 388. This case is an action to recover possession of property to which the plaintiff claimed title under mortgage executed by one Rollins. This mortgage was assigned by Rollins to Reuben Mayo, defendant's brother, and the defendant subsequently executed an assignment to Farnham & Lovejoy of Minneapolis in the name of Reuben Mayo but without his authority. Farnham & Lovejoy put both assignments on record, that is, the assignment to Reuben Mayo, defendant's brother, and the assignment apparently from Reuben Mayo, but made by defendant, to Farnham & Lovejoy, who foreclosed the mortgage. The assignment purporting to have been made by Reuben Mayo was not properly executed so as to authorize the assignment to be recorded. The Act of February 27, 1885, (Laws of 1885, Chapter 179), made prima facie evidence the contents of original instruments, then of record. In this case Reuben Mayo was making no claim to the property, but the defendant who gave the assignment to Farnham & Love-

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joy was claiming the property. The court in this case held that at the time of the passage of this act the legal title of the property still remained in the defendant, subject to the mortgage, but the curative act could not give validity to a previous void foreclosure or divest defendant's title or deprive him of his right to redeem. This case should never have been decided on the question of curative act but on the question of estoppel, as the holding in this case allows the defendant to take advantage of his own wrongful act. Compare the holding in this case with *Diamond v Manheim*, 61 M 178, and *Purcell v Thornton*, 128 M 255.

Throughout the decisions the court seems to stress the question of notice as to whether or not the defect was jurisdictional. But they have been by no means consistent even where the defendant had actual notice of the proceedings. So many factors enter into the validity of a curative act curing any specific defect in a particular case, that it is well in each case to take into consideration the circumstances surrounding possession, notice, character of the irregularity which the curative act sought to cure, and lapse of time between the irregularity and the time of making the examination, the intervention of the rights of third parties; whether or not the property is still in possession of the mortgagors in the case of an irregular mortgage; or in possession of the grantors in the case of a deed.

Curative acts are and will always be necessary as long as people make mistakes. Curative acts dealing with irregularities in real property transactions should be carefully drawn by lawyers with experience in such matters. If so drawn, they will be less susceptible to unfavorable construction by the courts.