

## Lands and Minerals

## CHAPTER 92

DIVISION OF LANDS AND MINERALS; SALES OF  
LANDS AND INVESTMENT OF PROCEEDS**92.01 DEFINITIONS.**

HISTORY. 1941 c. 374 s. 1.

**92.02 AUTHORITY.**

HISTORY. 1911 c. 123 s. 4; G.S. 1913 s. 5224; 1919 c. 199 s. 1; G.S. 1923 s. 6282; M.S. 1927 s. 6282.

State v Finnegan, 188 M 54, 246 NW 521, upheld the constitutionality of an earlier law which transferred the duties of the auditor in respect to state lands to the conservation commissioner.

COMMISSIONER OF CONSERVATION; AUTHORITY TO DELEGATE POWERS AND DUTIES TO DIVISION DIRECTORS. See 1938 OAG 95.

SCHOOL LANDS. School lands are not the subject of constitutional safeguard as to the manner of appraisal and sale except that by the Constitution, Article 8, Section 2, they are required to be sold at public sale. State v Finnegan, 188 M 54, 246 NW 521.

The purpose of the provision prohibiting a sale of school lands except at public sale is to foster and conserve the school fund, to prevent school lands from being sold at an inadequate price, and to secure competition therefor, and to guard against favoritism in the disposition thereof. State v Evans, 99 M 220, 108 NW 958.

The purpose of the Constitution, Article 8, Section 2, was to surround the disposal of the lands with publicity, thus avoiding private or secret dealings with speculators. Ind. School Dist. v State, 124 M 271, 144 NW 960.

SCHOOL LANDS; ACQUIRING BY CONDEMNATION. A disposal of state school lands in condemnation proceedings, where the value thereof is appraised and paid substantially as in the case of a public sale, is equivalent to a public sale and answers every purpose of the constitutional provision that no school land held by the state shall be disposed of otherwise than at public sale. Ind. School Dist. v State, 124 M 271, 144 NW 960.

PUBLIC LANDS; ACQUIRING BY ADVERSE POSSESSION. The title to lands granted to the state by the United States for the use of its schools cannot be acquired by adverse possession against the state. Murtaugh v C. M. & St. P. Ry. Co. 102 M 52, 112 NW 860, 120 ASR 609; Accord, Kinney v Munch, 107 M 378, 120 NW 374.

Since the adoption in 1881 of an amendment to the Constitution, Article 8, Section 2, the title or right to occupy swamp lands acquired by the state from the United States cannot be acquired by adverse possession against the state. The amendment placed swamp lands on the same footing as school lands. Scofield v Schaeffer, 104 M 123, 116 NW 210; see 1938 OAG 391; 25 MLR 100.

TIMBER SALES. Section 92.12, subd. 4, should be read with section 92.03, subd. 1. State v Hamre-Hogenson Holding Co. 183 M 318, 236 NW 456.

Timber-bearing school land was sold as agricultural land without a separate appraisal of the timber thereon or collecting in cash the timber's value. Held,

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the sales were void and the certificates of no effect. *State v Hamre-Hogenson Holding Co.* 183 M 318, 236 NW 456.

The auditor as land commissioner, under the authority of statute, determined certain school land to be agricultural in character which was in fact timber land. The defendant purchased this land without the timber being first sold and removed as the statute then required on sales of timber land. Certificates of sale regular in form were issued to him. The state, disregarding the sales certificates, brought an action for timber trespass on the theory that the sale was without authority and the certificates were nullities. The court held that the certificates could not be collaterally attacked by extrinsic evidence, the auditor's action being a case of mistaken exercise of power and not of an absolute want of power. *State v Red River Lbr. Co.* 109 M 185, 123 NW 412. Fourteen years later, on the same facts, the state brought a second action, direct attack in form, for the cancellation of the certificates. 157 M 7, 195 NW 495. The power of the auditor to sell was found to depend not upon his own determination of the character of the land but upon its real character. Thus there was an absolute want of power for his action and the certificates were void.

After a patent has issued there can be no collateral attack against the correctness of the decision of the officer who must determine whether the land is chiefly valuable for timber. *White & Street Townsite Co. v J. Neils Lbr. Co.* 100 M 16, 110 NW 371.

**LIMIT ON ACREAGE.** The provision of the statute which limits the amount of school lands that may be sold within a year refers to that which is technically known as school land and not to other lands which may be for the promotion of education and the benefit of the schools of the state. 1912 OAG 562.

**PAYMENTS; INTEREST.** The rate of interest on contracts outstanding for the sale of school lands is four per cent without regard to the date when the contracts were made. 1916 OAG 506.

Interest where purchaser pays contract before maturity. 1916 OAG 506.

The matter of interest is exclusively one between the state and the party from whom it is due so long as the state asserts no forfeiture no other person can. *McKinney v Bode*, 32 M 228, 20 NW 94.

It is unimportant that persons other than the original purchaser paid the interest due, whether claiming under him or not, so long as the state received it on the owner's certificate as interest and failed to assert any forfeiture. *McKinney v Bode*, 32 M 228, 20 NW 94.

## 92.03 MINIMUM PRICE OF LANDS.

**HISTORY.** 1868 c. 55 s. 1; G.S. 1878 c. 38 s. 6; 1885 c. 102 s. 2; G.S. 1894 ss. 3965, 4026; 1895 c. 163 s. 8; R.L. 1905 ss. 2404, 2405, 2407, 2408; G.S. 1913 ss. 5204, 5205, 5207, 5208; G.S. 1923 ss. 6261, 6262, 6264, 6265; M.S. 1927 ss. 6261, 6262, 6264, 6265.

## 92.04 MINIMUM PRICE OF CERTAIN STATE LANDS.

**HISTORY.** 1865 c. 5 s. 2; 1875 c. 95 s. 2; G.S. 1878 c. 38 s. 25; G.S. 1894 s. 4030; 1901 c. 177; R.L. 1905 s. 2409; 1907 c. 366 s. 1; 1909 c. 118 s. 1; G.S. 1913 s. 5209; G.S. 1923 s. 6266; M.S. 1927 s. 6266.

## 92.05 SALT LANDS, BY WHOM SOLD.

**HISTORY.** 1873 c. 133 s. 1; G.S. 1878 c. 38 s. 26; 1885 c. 215; G.S. 1878 Vol. 2 (1888 Supp.) c. 37 s. 26a; 1889 c. 267 s. 1; G.S. 1894 ss. 3948, 3949, 3951; R.L. 1905 s. 2406; G.S. 1913 s. 5206; G.S. 1923 s. 6263; M.S. 1927 s. 6263.

## 92.06 PAYMENTS; INTEREST.

**HISTORY.** G.S. 1866 c. 38 ss. 7, 10; 1877 c. 56 s. 3; G.S. 1878 c. 38 ss. 7, 11; 1885 c. 195; 1893 c. 106 s. 1; G.S. 1894 ss. 3966, 3970, 3974; 1901 c. 91; R.L. 1905 ss.

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2410, 2411; G.S. 1913 ss. 5210, 5211; 1915 c. 13 s. 1; G.S. 1923 ss. 6267, 6268; M.S. 1927 ss. 6267, 6268; 1941 c. 374 s. 2.

### 92.07 SALES BY SUBDIVISIONS.

HISTORY. G.S. 1866 c. 38 s. 30; G.S. 1878 c. 38 s. 27; G.S. 1894 s. 3988; R.L. 1905 s. 2412; G.S. 1913 s. 5212; G.S. 1923 s. 6269; M.S. 1927 s. 6269.

### 92.08 SURVEYS AND RESURVEYS.

HISTORY. G.S. 1866 c. 38 s. 22; G.S. 1878 c. 38 s. 20; G.S. 1894 s. 3981; R.L. 1905 s. 2417; G.S. 1913 s. 5217; 1917 c. 197 s. 1; G.S. 1923 ss. 6274, 6275; M.S. 1927 ss. 6274, 6275.

### 92.09 LAND SUBDIVIDED, APPRAISED, REAPPRAISED.

HISTORY. G.S. 1866 c. 38 s. 16; G.S. 1878 c. 38 s. 17; G.S. 1894 s. 3977; 1895 c. 163 ss. 5, 6, 8; R.L. 1905 ss. 2413 to 2415; G.S. 1913 ss. 5213 to 5215; G.S. 1923 ss. 6270 to 6272; M.S. 1927 ss. 6270 to 6272.

The commissioner has authority to subdivide trust fund lands into small parcels or lots; and to dedicate streets and alleys to the public. 1942 OAG 15, July 25, 1941 (700D-26).

### 91.10 MAPS AND PLATS.

HISTORY. G.S. 1866 c. 38 s. 24; G.S. 1878 c. 38 s. 22; G.S. 1894 s. 3983; R.L. 1905 s. 2416; 1911 c. 123 s. 5; G.S. 1913 ss. 5216, 5225; G.S. 1923 ss. 6273, 6283; M.S. 1927 ss. 6273, 6283.

### 92.11 LANDS APPRAISED.

HISTORY. 1895 c. 163 s. 8; R.L. 1905 s. 2418; G.S. 1913 s. 5218; G.S. 1923 s. 6276; 1927 c. 241 s. 1; M.S. 1927 s. 6276.

### 92.12 APPRAISAL OF SCHOOL AND OTHER STATE LANDS.

HISTORY. 1911 c. 196 s. 1; G.S. 1913 s. 5219; Ex. 1919 c. 17 s. 1; G.S. 1923 s. 6277; 1927 c. 332 s. 1; M.S. 1927 s. 6277; Ex. 1933 c. 22 s. 1; 1941 c. 374 s. 3.

Subd. 4. SALE OF TIMBER. This section was intended to facilitate the disposal of lands that were fit for agricultural purposes and did not contain timber in sufficient quantities, and so located with respect to other timber lands that a sale of the timber separately would be profitable to the state. Under this section discretion is vested largely in the commissioner as to the sale of lands adapted to farming and which contain some timber. State v Skelton, 167 M 159, 208 NW 660.

### 92.13 DATE OF SALES OF STATE LANDS FIXED BY DIRECTOR.

HISTORY. 1911 c. 123 s. 1; 1913 c. 8 s. 1; G.S. 1913 s. 5221; 1923 s. 6 s. 1; G.S. 1923 s. 6279; M.S. 1927 s. 6279.

The fact that one of the publications giving notice of the date of sale fell on a holiday, did not invalidate the notice or sale. 1936 OAG 251, June 8, 1935 (276d).

### 92.14 NOTICE OF SALE.

HISTORY. 1895 c. 163 ss. 2, 9; R.L. 1905 s. 2419; 1911 c. 123 s. 2; G.S. 1913 ss. 5220, 5222; G.S. 1923 ss. 6278, 6280; M.S. 1927 ss. 6278, 6280.

PUBLICATIONS ON LEGAL HOLIDAYS. Published notice in a weekly newspaper is valid even though the date of publication falls on a legal holiday. 1936 OAG 251.

### 92.15 APPLICATION.

HISTORY. 1911 c. 123 s. 3; G.S. 1913 s. 5223; G.S. 1923 s. 6281; M.S. 1927 s. 6281.

**92.16 CERTIFICATE OF SALE.**

**HISTORY.** 1895 c. 163 ss. 1, 3; 1897 c. 302; R.L. 1905 ss. 2420, 2421; G.S. 1913 ss. 5227, 5228; G.S. 1923 ss. 6284, 6285; M.S. 1927 ss. 6284, 6285; Ex. 1934 c. 39 s. 1; 1941 c. 374 s. 4.

Subd. 2. **DEFAULT IN PAYMENT OF INTEREST; RE-SALE.** The vendee of public lands is entitled to the possession until under the contract his rights are terminated by foreclosure which can only be made as the statute provides by a re-sale or a public offering for re-sale. 1920 OAG 762.

The re-sale wipes out the former contract and all obligations thereunder. 1926 OAG 331.

If the state reoffers trust fund lands for sale under this section title will revert to the state for the trust fund subject only to the bare right to redeem. After reversion the state has the sole right to possession and use. 1936 OAG 334.

Under this section not only the legal title but the right to the possession of land unsold after reappraisal, advertisement and public offer, is in the state in trust for the appropriate trust fund. 1936 OAG 332.

A purchaser of state lands in default may repurchase that same land at a re-sale and be thereby relieved of his duty to pay interest, penalties, and taxes under his original purchase. 1936 OAG 331.

The conservation department has been given control over the administration of state trust fund lands and such land as is deemed unsold lands of the State may be leased by the department only. 1936 OAG 332.

Laws 1935, Chapter 68, declaring a moratorium on the foreclosure of contracts for deed and suspending section 559.21, does not prohibit the state from re-selling delinquent trust fund lands held under certificate of sale. 1936 OAG 330.

If trust fund land which borders on a meandered lake is interest delinquent but has not reverted to the state, the state will not be prevented by section 92.45 from bringing about its reversion by offering it for sale in the manner section 92.16 provides for. 1938 OAG 394.

When the state sells trust fund lands under certificate of sale, the state is under no obligation to evict trespassers, nor to convey a marketable record title. OAG Jan. 9, 1945 (700d-28).

**92.163 EXTENSION OF TIME OF PAYMENT UNDER CERTIFICATES OF SALE IN CERTAIN CASES.**

**HISTORY.** 1943 c. 469.

**92.17 EFFECT OF CERTIFICATE; RECORD.**

**HISTORY.** G.S. 1866 c. 38 ss. 12, 17; G.S. 1878 c. 38 ss. 13, 18; G.S. 1894 ss. 3973, 3978; R.L. 1905 s. 2423; G.S. 1913 s. 5230; G.S. 1923 s. 6287; M.S. 1927 s. 6287.

A certificate is similar to the ordinary contract for purchase with perhaps this difference, that a default in its conditions would absolutely terminate all rights under it. *McKinney v Bode*, 33 M 450, 23 NW 851.

Certificates are similar to and of like force and effect as executory contracts for the sale of land between individuals and pass to the holder an interest in land which ripens into and entitles the holder to the fee simple title on payment of the purchase price. *State v Red River Lbr. Co.* 109 M 185, 123 NW 412.

A certificate of sale of school lands is a conveyance within the meaning of section 501.07 prohibiting resulting trusts. *Haaeven v Hoas*, 60 M 313, 62 NW 110.

The holder of a certificate of sale is the equitable owner of the land. *Krelwitz v McDonald*, 135 M 408, 161 NW 156; *Wilder v Haughey*, 21 M 101; *State v Red River Lbr. Co.* 109 M 185, 123 NW 412.

Until a patent issues legal title remains in the state. *McKinney v Bode*, 33 M 450, 23 NW 851.

The certificate becomes *functus officio* on the issuance of a patent. *McKinney v Bode*, 33 M 450, 23 NW 851.

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The owner of a certificate of school or swamp land is entitled to possession of the land, its rents and profits; as against all the world but the state he is to be treated as owner. *White & Street Townsite Co. v J. Neils Lbr. Co.* 100 M 16, 110 NW 371; *State v Red River Lbr. Co.* 109 M 185, 123 NW 412.

The equitable owner under the certificate may properly claim the land and hold it as his homestead. *Wilder v Haughey*, 21 M 101.

The owner of a certificate of sale may maintain ejectment for its possession, and trespass against a wrongdoer. *White & Street Townsite Co. v J. Neils Lbr. Co.* 100 M 16, 110 NW 371; *McKinney v Bode*, 32 M 228, 20 NW 94, and 33 M 450, 23 NW 851.

The purchaser of state swamp land who holds a certificate therefor has such title as will enable him to maintain an action to abate a nuisance to his land. *Scofield v Schaeffer*, 104 M 123; 116 NW 210.

**STATE'S RIGHT TO SUE FOR INJURY TO THE CERTIFICATE HOLDER'S LAND.** It follows from the case of *White & Street Townsite Co. v J. Neils Lbr. Co.* 100 M 16, 110 NW 371, that the state cannot maintain an action to abate the dams that flood the certificate holder's land. But it is barely possible that if the injury being done to the land is of a permanent nature and seriously impairs the security of the state for the balance that is to be paid to it, proceedings may be maintained by the state. 1916 OAG 510.

The purchaser's interest under an executory contract for sale of land if not a homestead may be sold on execution. 1912 OAG 451.

Effect of outstanding fully paid certificate of sale of trust fund lands in cases where the lands were subsequently forfeited for taxes. OAG May 8, 1944 (700d-23).

### 92.18 CERTIFICATES MAY BE DIVIDED.

**HISTORY.** 1875 c. 106 s. 1; G.S. 1878 c. 38 s. 10; G.S. 1894 s. 3969; R.L. 1905 s. 2424; G.S. 1913 s. 5232; G.S. 1923 s. 6288; M.S. 1927 s. 6288.

### 92.19 ASSIGNMENT; EXTENSIONS OF PAYMENT.

**HISTORY.** 1895 c. 163 s. 2; R.L. 1905 s. 2422; G.S. 1913 s. 5229; G.S. 1923 s. 6286; M.S. 1927 s. 6286.

The assignment of a certificate is a conveyance of real estate within section 507.01. *Krelwitz v McDonald*, 135 M 408, 161 NW 156.

The holder's equitable title under the certificate can be conveyed by quitclaim deed. *Krelwitz v McDonald*, 135 M 408, 161 NW 156.

A good faith purchaser who places his assignment on record is protected against prior unrecorded assignments by the recording act. *Krelwitz v McDonald*, 135 M 408, 161 NW 156.

In *McKinney v Bode*, 32 M 228, 20 NW 94, the assignment of the certificate by the husband to the wife was invalid as a contract between husband and wife relative to real estate or an interest therein.

The assignment of a certificate was ineffectual as a mortgage of the 80 acres in which the defendant and his wife claimed their homestead where the wife did not join in the assignment. *Wilder v Haughey*, 21 M 101.

An assignment of land certificates in blank as to grantee is a nullity until the name of the grantee is inserted therein. *Werntz v Bolin*, 135 M 449, 161 NW 155.

### 92.20 VOID SALES; REFUND.

**HISTORY.** G.S. 1866 c. 38 s. 27; G.S. 1878 c. 38 s. 25; G.S. 1894 s. 3986; R.L. 1905 s. 2425; G.S. 1913 s. 5234; G.S. 1923 s. 9290; M.S. 1927 s. 9290.

**SALES NOT IN ACCORDANCE WITH LAW.** A conditional sale was made of school and internal improvement lands. The sale was held void as the statute authorized only sales and not conditional sales or contracts to convey. *Wright v Burnham*, 31 M 285, 17 NW 479.

The sales were void and the certificates of no effect where timber-bearing school land was sold as agricultural land without a separate appraisal of the tim-

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ber therein and without collecting in cash the value of the timber. *State v Hamre-Hogenson Holding Co.* 183 M 318, 236 NW 456.

By section 92.20 the sale was void and the certificates were of no effect where the commissioner had determined certain timber-bearing school lands to be agricultural in character and sold them without the timber thereon being first sold and removed as the statute then required. There was an absolute want of power for his action; it was not a mere error in judgment in matters which the official had authority to determine. *State v Red River Lbr. Co.* 157 M 7, 195 NW 495.

In *Hughes v Thornton*, 155 M 432, 193 NW 723, where an officer issuing a patent inserted a reservation therein without authority of law only the reservation was held void.

No estoppel lies against the state as to sales of trust lands made not in accordance with law. *State v Hamre-Hogenson Holding Co.* 183 M 318, 236 NW 456.

**SALES MADE BY MISTAKE OR OBTAINED BY FRAUD.** In *State v Red River Lbr. Co.* 157 M 7, 195 NW 495, the error in determination of the character of the land constituted demonstrable mistake, and was so gross it amounted to fraud by implication.

In *State v Skelton*, 167 M 159, 208 NW 660, the evidence failed to sustain the finding that the commissioner had made such a mistake in classifying the lands as agricultural as to indicate bad faith either upon his part or that of the appraisers.

**COLLATERAL ATTACK.** As to the application of the rule against collateral attack, sales certificates should be accorded the same effect as patents. *State v Red River Lbr. Co.* 109 M 185, 123 NW 412. See annotations to section 92.29.

If the invalidity of the sale appears on the face of the certificate effect will be given this statute in any form of action. This section does not change the rule against collateral attack. *State v Red River Lbr. Co.* 109 M 185, 123 NW 412.

### 92.21 REDEMPTION OF STATE LANDS WHICH HAVE BEEN FORFEITED.

**HISTORY.** G.S. 1866 c. 38 s. 19; 1877 c. 56 s. 5; G.S. 1878 c. 38 s. 19; 1885 c. 64; G.S. 1894 s. 3979; R.L. 1905 s. 2426; G.S. 1913 s. 5235; G.S. 1923 s. 6291; M.S. 1927 s. 6291; Ex. 1934 c. 39 s. 2; 1939 c. 353; 1941 c. 374 s. 5.

Though the state holds the legal title and has the sole right to possession of trust fund land after default and after the land has been offered for re-sale yet the purchaser may redeem at any time prior to re-sale. That right of redemption is an interest in property. 1936 OAG 334.

The holder of a certificate forfeits all claim to the land by his failure to redeem and neglect to pay the annual interest due. *State v Bruce*, 50 M 491, 52 NW 970.

If delinquent trust fund lands have been forfeited to the state pursuant to Laws 1935, Chapter 278, interest payments should not be permitted under section 92.21. 1938 OAG 442.

Where by error payments on an outstanding certificate of permanent school fund purchase are credited to uncollectible penalties, the money should not be refunded, but on discovery of the error, should be credited to the unpaid principal. OAG July 26, 1944 (700d-6).

#### 92.211 TIME OF PAYMENT EXTENDED.

**HISTORY.** 1941 c. 374 s. 6.

#### 92.212 CERTAIN LANDS PRESUMED ABANDONED.

**HISTORY.** 1941 c. 374 s. 7.

#### 92.213 LIMITATION OF ACTIONS.

**HISTORY.** 1941 c. 374 s. 8.

#### 92.214 CERTIFICATES DEEMED CANCELED IN CERTAIN CASES.

**HISTORY.** 1941 c. 374 s. 9.

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## 92.215 TAXES CANCELED.

HISTORY. 1941 c. 374 s. 10.

State Dept. of Rural Credit v County of Washington, 207 M 530, 292 NW 204.

## 92.22 REFUNDMENT OF TAX CERTIFICATES UPON CERTAIN REFORM SCHOOL LANDS.

HISTORY. 1909 c. 491 s. 1; G.S. 1913 s. 5336; G.S. 1923 s. 6292; M.S. 1927 s. 6292.

## 92.23 PAYMENTS; RECEIPTS; LIABILITY OF OFFICIALS.

HISTORY. G.S. 1866 c. 38 s. 38; 1877 c. 56 s. 6; G.S. 1878 c. 38 s. 35; G.S. 1894 s. 3996; R.L. 1905 s. 2428; G.S. 1913 s. 5238; G.S. 1923 s. 6296; M.S. 1927 s. 6296; 1929 c. 200 s. 1; M. Supp. s. 6296-1; 1941 c. 374 s. 11.

The treasurer collects money on account of sales of school, university, or public lands not strictly as the county treasurer but as collector for the state. Board of Co. Comm'rs v Knudson, 71 M 461, 74 NW 158.

The treasurer becomes custodian of these funds by virtue of his office and the receipt and payment thereof are a part of his official duty as county treasurer. Gerken v County of Sibley, 39 M 433, 40 NW 508.

CRIMINAL LIABILITY OF TREASURER. State v Mims, 26 M 183. See, State v Young, 23 M 551, (rule that general bond of county treasurer does not cover moneys paid to him on account of sales of school and university lands changed by present statute); County of Redwood v Tower, 28 M 45, 8 NW 907; Board of Co. Comm'rs v Knudson, 71 M 461, 74 NW 158; 82 M 151, 84 NW 657.

## 92.24 MONEYS PAID TO STATE TREASURER.

HISTORY. G.S. 1866 c. 38 s. 44; 1877 c. 56 s. 9; G.S. 1878 c. 38 s. 40; G.S. 1894 s. 4001; R.L. 1905 s. 2430; G.S. 1913 s. 5240; G.S. 1923 s. 6298; M.S. 1927 s. 6298; 1945 c. 382 s. 1.

1916 OAG 527.

## 92.25 FEES OF TREASURER; STANDING APPROPRIATION.

HISTORY. G.S. 1866 c. 38 s. 39; 1877 c. 56 s. 7; G.S. 1878 c. 38 s. 36; 1885 c. 102 s. 4; G.S. 1894 s. 3997; R.L. 1905 s. 2431; G.S. 1913 s. 5241; G.S. 1923 s. 6299; M.S. 1927 s. 6299.

Gerken v County of Sibley, 39 M 433, 40 NW 508.

## 92.26 STATEMENT OF SALES.

HISTORY. G.S. 1866 c. 38 s. 43; G.S. 1878 c. 38 s. 39; G.S. 1894 s. 4000; R.L. 1905 s. 2432; G.S. 1913 s. 5242; G.S. 1923 s. 6300; M.S. 1927 s. 6300.

## 92.27 COUNTY AUDITORS; DUTIES AND POWERS.

HISTORY. G.S. 1866 c. 38 s. 41; 1877 c. 56 s. 8; G.S. 1878 c. 38 s. 37; G.S. 1894 s. 3998; R.L. 1905 s. 2433; G.S. 1913 s. 5243; G.S. 1923 s. 6301; M.S. 1927 s. 6301.

## 92.28 PROCEEDS OF SALES; DISTRIBUTION.

HISTORY. G.S. 1866 c. 38 ss. 49, 50; 1877 c. 56 s. 10; G.S. 1878 c. 38 s. 43; G.S. 1894 s. 4004; R.L. 1905 s. 2434; G.S. 1913 s. 5244; G.S. 1923 s. 6302; M.S. 1927 s. 6302.

## 92.29 LAND PATENTS.

HISTORY. 1895 c. 163 s. 4; R.L. 1905 s. 2427; G.S. 1913 s. 5237; G.S. 1923 s. 6295; M.S. 1927 s. 6295; 1935 c. 308 s. 1.

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When the patent issues it relates back to the date of the sale. *White & Street Townsite Co. v J. Neils Lbr. Co.* 100 M 16, 110 NW 371.

The patent vests the full legal title to the land in the grantee and cannot be set aside and the title be revested in the state at the suit of an adverse claimant. *Krelwitz v McDonald*, 135 M 408, 161 NW 156.

A patent when regular on its face is conclusive evidence of legal title. *McKinney v Bode*, 33 M 450, 23 NW 851; accord, *Holland v Netterberg*, 107 M 380, 120 NW 527.

A patent may be defeated even in an action at law by showing want of title in the state or an absolute want of power in the officer to issue it. *McKinney v Bode*, 33 M 450, 23 NW 851; and see, *State v Shevlin-Carpenter Co.* 62 M 99, 64 NW 81, (timber permit case).

A patent cannot be collaterally attacked for irregularities in the conduct of the officers authorized to issue it. *McKinney v Bode*, 33 M 450, 23 NW 851.

The force and effect of a patent is fixed and determined by law; its effect and the rights conferred by it can neither be extended nor limited by the action of the officers issuing it. *Hughes v Thornton*, 155 M 432, 193 NW 723.

The defendant in *White & Street Townsite Co. v J. Neils Lbr. Co.* 100 M 16, 110 NW 371, was not allowed to impeach plaintiff's title after a patent had issued by showing that school lands classed as agricultural were chiefly valuable for timber.

One with prior equitable rights superior to the patentee's may enforce his equity by action, or if defendant, by answer, in which the court may cause the legal title to be vested in him and may adjudge the possession to him. *McKinney v Bode*, 33 M 450, 23 NW 851; *Holland v Netterberg*, 107 M 380, 120 NW 527.

**PATENT TO PURCHASER AT EXECUTION SALE.** The person buying at execution sale, if the interest of the original purchaser was subject thereto, succeeds by substitution to such title and interest in the lands as had been acquired by the original purchaser, whatever it might be. 1918 OAG 451.

### 92.30 STATE TO SELL CERTAIN LANDS.

HISTORY. 1929 c. 246 s. 1; M. Supp. s. 6302-1.

### 92.31 STATE MAY EXCHANGE LAND.

HISTORY. 1929 c. 246 s. 2; M. Supp. s. 6302-2.

### 92.32 GOVERNOR TO EXECUTE CONVEYANCES.

HISTORY. 1929 c. 246 s. 3; M. Supp. s. 6302-3.

### 92.33 LAND USE COMMITTEE.

HISTORY. 1933 c. 436; s. 1; M. Supp. s. 6302-5.

### 92.34 LAND CLASSIFICATION COMMITTEE IN CERTAIN COUNTIES.

HISTORY. 1933 c. 436 s. 2; M. Supp. s. 6302-6.

### 92.35 DUTIES AND POWERS.

HISTORY. 1933 c. 436 s. 3; M. Supp. s. 6302-7.

### 92.36 LANDS CLASSIFIED.

HISTORY. 1933 c. 436 s. 4; M. Supp. s. 6302-8.

### 92.37 REPORT TO LEGISLATURE.

HISTORY. 1933 c. 436 s. 5; M. Supp. s. 6302-9.



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## 92.38 MINNESOTA LAND EXCHANGE COMMISSION.

HISTORY. 1941 c. 393 s. 1.

## 92.39 CLASSES OF LAND.

HISTORY. 1941 c. 393 s. 2.

## 92.40 CLASS A LAND EXCHANGED; CONDITIONS.

HISTORY. 1941 c. 393 s. 3.

## 92.41 CLASS B LAND EXCHANGED; CONDITIONS.

HISTORY. 1941 c. 393 s. 4.

## 92.42 FORMS PRESCRIBED BY ATTORNEY GENERAL.

HISTORY. 1941 c. 393 s. 5.

## 92.43 TITLES.

HISTORY. 1941 c. 393 ss. 6, 7.

## 92.44 CERTAIN LAND SUBJECTED TO LIKE TRUSTS.

HISTORY. 1941 c. 393 s. 8.

## 92.45 STATE LAND ON MEANDERED LAKES WITHDRAWN FROM SALE.

HISTORY. 1923 c. 430 s. 11; G.S. 1923 s. 6463; 1927 c. 330 s. 1; M.S. 1927 s. 6463; 1929 c. 21.

The purpose of this section was to conserve for public use state land bordering on public waters. 1938 OAG 394.

Section 92.45 does not prevent the state from bringing about the reversion of interest delinquent state trust fund land by offering it for sale in the manner section 92.16 provides for where that land is a tract bordering on a meandered lake. 1938 OAG 394.

RESERVATION OF STRIP FOR PUBLIC TRAVEL. See, 1934 OAG 759.

Lessees of state lakeshore property take their leases subject to the reservation this section creates in favor of the general public, and cannot fence over such portion of the premises as is reserved for public travel. 1932 OAG 178.

While those not lessees may walk over the reserved strip they may not establish over-night camps or hunting blinds on it. 1934 OAG 168.

## 92.46 CERTAIN LANDS DESIGNATED AS CAMP GROUNDS.

HISTORY. 1923 c. 430 ss. 12, 13; G.S. 1923 ss. 6464, 6465; M.S. 1927 ss. 6464, 6465.

RESERVATION OF STRIP FOR PUBLIC TRAVEL. The two-rod strip that section 92.45 reserves for public travel section 92.46 excludes from land that may be surveyed and platted into lots and leased for cottage and camp purposes, and likewise excludes it from land that may be designated as state public camp grounds for use as transient camping places. 1934 OAG 168.

## 92.47 SWAMP LAND FUND; TRANSFER OF STATE INSTITUTIONS FUNDS.

HISTORY. 1907 c. 385 s. 1; G.S. 1913 s. 5248; G.S. 1923 s. 6315; M.S. 1927 s. 6315.

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## 92.48 SALES AND INVESTMENT OF PROCEEDS

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### 92.48 SWAMP LAND INTEREST FUND.

HISTORY. 1907 c. 385 s. 2; G.S. 1913 s. 5249; G.S. 1923 s. 6316; M.S. 1927 s. 6316.

### 92.49 REVENUE FUND.

HISTORY. 1907 c. 385 s. 3; G.S. 1913 s. 5250; G.S. 1923 s. 6317; M.S. 1927 s. 6317.

### 92.50 UNSOLD LANDS SUBJECT TO SALE MAY BE LEASED.

HISTORY. 1915 c. 192 s. 1; 1917 c. 31; 1919 c. 405 s. 1; G.S. 1923 s. 6328; M.S. 1927 s. 6328; 1945 c. 321 s. 1.

LEASING OF LANDS ACQUIRED FOR DELINQUENT TAXES; AUTHORITY. See, 1934 OAG 843.

TEMPORARY USES. The feeding of distressed cattle is a temporary use within the meaning of this section, and pasturage may be leased therefor. 1934 OAG 750.

### 92.51 LANDS SOLD ARE TAXABLE; REDEMPTION; SPECIAL CERTIFICATE.

HISTORY. G.S. 1866 c. 38 s. 23; 1870 c. 50 s. 1; G.S. 1878 c. 38 s. 21; G.S. 1894 s. 3982; R.L. 1905 s. 2439; 1909 c. 114 s. 1; G.S. 1913 s. 5252; G.S. 1923 s. 6323; M.S. 1927 s. 6323.

When state lands sold under contract for deed revert back to the state, the state resumes title free from the lien for taxes. Such taxes were at no time a lien on the interest of the state. They were a lien only on the interest of the vendee. The interest of the vendee having been extinguished by the resumption of ownership by the state, the tax lien on such interest likewise is extinguished. 1934 OAG 845.

When the state resumes title to a parcel of land by reentry and the purchaser's right to redeem is cut off by a re-sale, all outstanding taxes against such parcel are wiped out because those taxes never were a lien against the state's interest and for the further reason that the purchaser's interest is no longer in existence. 1936 OAG 334.

If after the lands revert to the state the purchaser or his assigns conveys by quitclaim his interest to the state it is not so clear that the tax interest is wiped out. 1936 OAG 334.

The sale of trust fund lands for delinquent taxes by a county is not authorized. 1936 OAG 334.

The only interest in trust fund lands that may be sold for the enforcement of delinquent taxes is the interest vested by the land sale certificate in the owner thereof. 1936 OAG 334.

The purchaser at the delinquent tax sale acquired the right to succeed by substitution to such title and interest in the land as had been acquired by the original purchasers; their payments inured to his benefit. *State v Bruce*, 50 M 491, 52 NW 970.

Tax certificate purchasers simply acquire liens on the interests of the vendees. To protect such interest and to prevent a re-sale by the state it is practically necessary for the purchasers to pay the interest in default. This section gives that right and prescribes the rate of interest which must be paid in case of redemption. 1928 OAG 849.

The purchaser at a sale for delinquent taxes on state lands sold under contract for deed who perfects his tax title acquires only the interest of the vendee of such land. It follows that if such land reverts to the state by reason of the nonpayment of instalments of principal or interest due on the state contract the tax title of the purchaser at a tax sale is extinguished. 1934 OAG 845.

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STATE'S OBLIGATION FOR DITCH LIENS ON REXERTED LANDS. See, 1934 OAG 845.

REFUNDMENTS. One who buys land at a tax sale is never a bona fide purchaser and if his title for any reason fails he has no remedy independent of a statutory provision affording him relief. 1932 OAG 264.

On the power of the legislature to make provisions of reimbursement in certain cases, see *State v Cronkhite*, 28 M 197, 9 NW 681; *State v Foley*, 30 M 350, 15 NW 375; *Coles v County of Washington*, 35 M 124, 27 NW 497; *Easton v Hayes*, 35 M 418, 29 NW 59; *Schoonover v Galarnault*, 45 M 174, 47 NW 654, (cases involved the refunding of purchase money and subsequent taxes paid on void tax sales); distinguish, *State v Bruce*, 50 M 491, 52 NW 970.

Under a contract for sale of land where the vendee is entitled to possession, or where he takes such possession, the relationship between the vendee and vendor is similar to that created by mortgage or conditional sale; the beneficial interest being in the vendee and the security interest in the vendor. *S. R. A. Inc. v State*, 213 M 487, 7 NW(2d) 484.

## 92.52 ESCHEAT SUBJECT TO ENCUMBRANCE.

HISTORY. 1903 c. 192; R.L. 1905 s. 2441; G.S. 1913 s. 5257; G.S. 1923 s. 6329; M.S. 1927 s. 6329.

## 92.53 REVOLVING FUND FOR CLEARING UNSOLD SCHOOL AND SWAMP LAND.

HISTORY. 1917 c. 164 ss. 1, 2; G.S. 1923 ss. 6330, 6331; M.S. 1927 ss. 6330, 6331.

## 92.54 IMPROVEMENTS.

HISTORY. 1917 c. 164 s. 4; G.S. 1923 s. 6333; M.S. 1927 s. 6333.

## 92.55 WHERE IMPROVEMENTS ARE TO BE MADE.

HISTORY. 1917 c. 164 s. 5; G.S. 1923 s. 6334; M.S. 1927 s. 6334.

## 92.56 EXTENT OF IMPROVEMENTS.

HISTORY. 1917 c. 164 s. 6; G.S. 1923 s. 6335; M.S. 1927 s. 6335.

## 92.57 CONTRACT AWARDED TO LOWEST RESPONSIBLE BIDDER.

HISTORY. 1917 c. 164 s. 7; G.S. 1923 s. 6336; M.S. 1927 s. 6336.

## 92.59 SALE OF LANDS IMPROVED.

HISTORY. 1917 c. 164 s. 9; G.S. 1923 s. 6338; M.S. 1927 s. 6338; 1943 c. 321 s. 1.

## 92.62 EXPENSES; HOW PAID.

HISTORY. G.S. 1866 c. 38 s. 26; G.S. 1878 c. 38 s. 24; G.S. 1894 s. 3985; R.L. 1905 s. 2438; G.S. 1913 s. 5251; G.S. 1923 s. 6318; M.S. 1927 s. 6318.