

CHAPTER 358

SEALS, OATHS, AND ACKNOWLEDGEMENTS

358.01 PRIVATE SEALS ABOLISHED.

Conditional delivery of deeds direct to the grantee. 5 MLR 293.

Gifts causa mortis; symbolical delivery. 6 MLR 596.

Specific performance of contract under seal against undisclosed principal. 9 MLR 581.

Statute of frauds; formalities required; seal as to "expressing consideration." 14 MLR 758.

Release of personal injury claim by instrument under seal. 15 MLR 810.

Validity of mortgages and deeds executed without corporate seal. 17 MLR 543.

Joint tort-feasors; seal importing consideration. 22 MLR 694.

358.06 TRUSTEES, REFEREES.

Conveyances under the probate code. 20 MLR 106.

Guardians and commitments under the probate code. 20 MLR 333.

358.07 FORMS OF OATH IN VARIOUS CASES.

The official duties of the grand jury are included in the official oath taken by its members before entering upon their duties, and the form is one that has come from the most ancient times. State v Iosue, 220 M 283, 19 NW(2d) 735.

358.09 BY WHOM AND HOW ADMINISTERED.

An acknowledgment taken by a town clerk is valid even though he does not attach a seal. OAG May 5, 1943 (436-A).

A town clerk may administer an oath or take an acknowledgment in connection with his official duties or otherwise. OAG May 24, 1943 (436-A).

Commissioned officer in armed forces may administer an oath. See, section 358.27. 1944 OAG 131, Nov. 26, 1943 (639-E).

358.10 OFFICIALS MAY ADMINISTER, WHEN.

The right to fair hearing implies the right to compel the attendance of witnesses. OAG March 6, 1942 (85-E).

This section authorizes county boards to administer such oaths as they may deem necessary to the proper discharge of their duties. 1944 OAG 119, March 6, 1942 (85-E).

358.11 OATHS, WHERE FILED.

If the village clerk refuses to administer an oath to a person validly appointed to the village council, his oath may be taken before anyone authorized to administer an oath. OAG Dec. 27, 1945 (471-M).

358.12 ACKNOWLEDGMENTS; FORM OF CERTIFICATE.

Perjury was committed by somebody. The chattel mortgage purports to have been acknowledged before a notary. The notary's carelessness in making sure of

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the identity of persons whose acknowledgments he certified furnished opportunity for the forgery. *Lincoln Finance v Doe*, 183 M 19, 235 NW 392.

358.15 BY WHOM TAKEN IN THIS STATE.

Liability of public officers for negligence in certifying to acknowledgments. 14 MLR 830.

358.22 IN OTHER STATES; BY WHOM TAKEN.

A deed to property in Minnesota executed in another state in accordance with Minnesota laws and acknowledged before a notary of the other state at a place within his jurisdiction is entitled to record in Minnesota. OAG Dec. 15, 1943 (373-B-9-A).

358.23 CERTIFICATE, HOW AUTHENTICATED.

A deed of lands in Minnesota territory, executed before a magistrate of another state, but not certified by the clerk of the county court of such state to be "executed and acknowledged according to the laws" thereof, as required by Minnesota statute was not entitled to record in Minnesota and hence although copied into the record book was not recorded according to law. *Lowry v Harris*, 12 M 255 (166); *Prentice v Duluth Storage Co.* 58 F. 437.

What authentication required in order to record instruments executed by soldiers and sailors. OAG Dec. 6, 1944 (373b-17-1).

358.24 IN FOREIGN COUNTRIES.

Requisites by soldiers and sailors abroad. OAG Dec. 6, 1944 (373b-17-1).

358.26 EXECUTION ACCORDING TO FOREIGN LAW.

A deed not executed in conformity with the laws of this state is not entitled to record except when the deed is executed out of the state in accordance with the laws of the place of execution and the fact that the deed was executed according to such laws shall appear by the certificate of the clerk or other certifying officer of a court of record of the county or district in which the acknowledgment was taken. OAG June 6, 1946 (373-B-9-A).

358.27 SOLDIERS AND SAILORS ABROAD.

Amended by L. 1947 c. 523 s. 1.

Commissioned officers in armed forces may administer an oath. See, section 358.09. 1944 OAG 131, Nov. 26, 1943 (639-E).

Where it appears from face of instrument that it was executed by person enlisted, commissioned or employed in armed forces of the United States, instrument is entitled to record if it is acknowledged before any officer in active service of the United States with rank of second lieutenant or higher in the army or marine corps or ensign or higher in the navy, or any commissioned officer in active service of any component of the United States where officer certifies that person acknowledging, is at the time of his acknowledgment, enlisted or employed in armed forces of the United States and that officer taking acknowledgment is in active service of the armed forces of the United States. OAG Dec. 6, 1944 (310).

As amended by L. 1943, c. 95, this section controls as to acknowledgments of persons in military service taken outside of the continental United States. OAG Aug. 4, 1945 (310).

A chief warrant officer is not authorized to take acknowledgments. OAG Aug. 22, 1945 (310).