

LANDS AND MINERALS

CHAPTER 92

SALES OF LANDS AND INVESTMENT OF PROCEEDS

92.01 STATE PUBLIC LANDS OR STATE LANDS.

The title to all lands reserved by congress for the "use and support of the state university," and if all the property, real and personal, acquired by the regents, with the fund placed at their disposal, is in the state. *Regents v Hart*, 7 M 61, G. 45.

Laws 1889, c. 22, authorizing leases of mineral lands by the state, is applicable only to lands "belonging to the state." It is not applicable to lands merely selected, even though recognized as valid by the commissioner. *Baker v Jamison*, 54 M 17, 55 NW 749.

Laws 1889, c. 22, as amended, and providing for the issuance of mineral leases and contracts is constitutional. *State v Evans*, 99 M 220, 108 NW 958.

The interest of the Little Falls Company in the land in question was, prior to its selection by the land commissioner, vested in the state by reason of the failure of the company to complete the last section of thirty miles of its road within the time limited by the grant. *White v Neils Lumber Co.*, 100 M 16, 110 NW 371.

Purchaser of state swamp land, who holds a land commissioner's certificate therefor, has such title as will enable him to maintain an action to have removed a milldam which causes water to overflow his land. Since the adoption in 1881 of the amendment to Minn. Const. Art. 8, s 2, title or right to occupy swamp lands acquired by the state from the United States cannot be acquired by adverse possession against the state. *Scofield v Scheaffer*, 104 M 123, 116 NW 210.

The state auditor, as ex-officio land commissioner, is authorized by statute to determine the character of the state's school lands, whether agricultural, timber, or mineral, and his determination thereof can be called in question, after the sale of land based thereon, only in direct proceedings brought for that purpose. *State v Red River Lumber Co.*, 109 M 186, 123 NW 412.

Under L. 1913, c. 258, a duly organized school district may acquire an interest in and to a tract of state school land for experimentation and instruction in agriculture. *Independent School v State*, 124 M 271, 144 NW 960.

Timber-bearing school land was sold as agricultural land without a separate sale of timber or the collection in cash of the value. The sale was void and the certificates of no effect. Estoppel cannot be invoked. *State v Hamre*, 183 M 318, 236 NW 456.

Laws 1931, c. 186, creating a department of conservation and transferring to the conservation commissioner all functions of the state auditor in respect to state lands, is constitutional. *State v Finnegan*, 188 M 54, 246 NW 521.

A settler obtaining land while open for settlement is protected in his rights against the railroad that claims under a grant. *St. Paul Co. v Greenalge*, 11 SC 395.

One purchasing for value and in good faith, from a railroad company, lands which while actually public lands were certified by the government to the state for the benefit of the company, is by virtue of Federal Act 1896 (29 Stat. 42) confirmed in his ownership of said lands. *United States v Winona and St. Peter*, 17 SC 368.

Where lands, respecting which the United States owed obligations to Chippewa Indians, had been patented to Minnesota, the United States as guardian of In-

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dians and by reason of its obligation to them, was a party in interest, entitled to sue to recover lands in United States Supreme Court. *United States v Minnesota*, 46 SC 298, 270 US 181.

Presumption of lost grant as applied against the state. 25 MLR 100.

92.03 MINIMUM PRICE OF LANDS.

See, *Scofield v Scheaffer*, 104 M 123, 116 NW 210; *State v Hamre*, 183 M 318, 236 NW 456, noted under 92.01.

92.06 PAYMENTS; INTEREST.

Where, after a good-faith purchaser has become the owner of the equitable title to the land by virtue of the recording acts, the holder of an unrecorded assignment pays the balance due the state, surrenders the certificate, and receives the patent, such patent cannot be canceled and legal title reverted in the state at the suit of the equitable owner, but the patentee may be adjudged to hold the title in trust for the equitable owner, and may be required to convey it to him upon payment of the amount so paid to the state. *Krelwitz v McDonald*, 135 M 409, 161 NW 156.

The state need not record all instruments showing steps taken in cancellation of prior certificates in order to perfect the record title of a purchaser. OAG Jan. 9, 1945 (700-D-28).

92.09 LAND SUBDIVIDED, APPRAISED, REAPPRAISED.

Amended by L. 1947, c. 213, s. 1.

Where land is subject to an easement it is not necessary to subdivide the land from the easement, but the area may be sold subject to the easement. OAG Jan. 13, 1942 (229-1-3).

92.10 MAPS AND PLATS.

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 (700-D-26).

92.11 LANDS APPRAISED.

Amended by L. 1947, c. 213, s. 2.

92.12 APPRAISAL OF SCHOOL AND OTHER STATE LANDS.

The determination and classification of land by the state auditor, in his capacity as land commissioner cannot be questioned collaterally, but only by direct proceedings. *State v Red River Lumber Co.*, 109 M 185, 123 NW 412.

92.14 NOTICE OF SALE.

State land commissioner is authorized to sell school lands only in the manner prescribed by statute. There can be no variance by way of reservations or exceptions. There must be a publication of the time and place of sale. *Hughes v Thornton*, 155 M 435, 193 NW 723.

92.16 CERTIFICATE OF SALE.

Holder of a certificate of sale is the equitable owner of the land therein described, and is entitled to possession, and rents and profits against all except the state. *McKinney v Bode*, 32 M 228, 20 NW 94; *White v Neils*, 100 M 16, 110 NW 371; *Scofield v Scheaffer*, 104 M 123, 116 NW 210; *Krelwitz v McDonald*, 135 M 408, 161 NW 156; *Wernitz v Bolen*, 135 M 449, 161 NW 155.

Cases involving title of purchaser or involving rights of third party, and due to irregular issuance of certificate or failure of payments. *Murphy v McGuire*, 47 M 103, 49 NW 388; *Lawver v Great Northern*, 112 M 46, 127 NW 431; *State v Red River Lumber Co.*, 157 M 7, 195 NW 495; *State v Hamre*, 183 M 318, 236 NW 456.

The county treasurer is entitled to receive his fee of one-half of one per cent on each dollar received on account of the certificate of sale whether such payment is received by him before or after the certificate is issued. 1944 OAG 228, Dec. 15, 1943 (450-E).

92.17 EFFECT OF CERTIFICATE; RECORD.

Status of lands upon which an outstanding certificate of sale has been fully paid and which have been subsequently forfeited for non-payment of taxes. (See effect of L. 1945, c. 169.) 1944 OAG 57, May 8, 1944 (700-D-23).

Where trust fund land is sold on certificate, with purchase price paid in full, except interest for last month, no patent being issued, and forfeited for non-payment of taxes, remained trust fund land. OAG Nov. 26, 1945 (700-D).

92.21 REDEMPTION OF STATE LANDS WHICH HAVE BEEN FORFEITED.

The purchaser of trust fund land takes such title as the state has. There is no warranty of perfect title. OAG Jan. 9, 1945 (700-D-28).

92.211 TIME OF PAYMENT EXTENDED.

Impairing obligation of contract; moratory laws. 12 MLR 274, 18 MLR 319, 19 MLR 210.

Moratory legislation for relief of mortgagors. 18 MLR 318.

92.214 CERTIFICATES DEEMED CANCELED IN CERTAIN CASES.

Status of lands upon which an outstanding certificate of sale has been fully paid and which have subsequently been forfeited for nonpayment of taxes. 1944 OAG 57, May 8, 1944 (700-D-23).

92.25 FEES OF TREASURER.

The county treasurer is entitled to receive his fee of one-half of one per cent on each dollar received on account of the certificate of sale whether such payment is received by him before or after the certificate is issued. 1944 OAG 228, Dec. 15, 1943 (450-E).

92.40 CLASS A LAND EXCHANGED; CONDITIONS.

In any conveyance of class A land the commissioner may, at his discretion, reserve certain rights and easements and must reserve the mineral and water-power rights. OAG Aug. 3, 1943 (311-F).

92.45 STATE LAND ON MEANDERED LAKES WITHDRAWN FROM SALE.

By authority of L. 1937, c. 468, the commissioner of conservation has such control of waters, that he has veto power over other established statutory agencies, and other agencies may not proceed to make changes without his consent. 1944 OAG 60, July 28, 1944 (983-D).

92.50 UNSOLD LANDS SUBJECT TO SALE MAY BE LEASED.

Amended by L. 1947, c. 323, s. 1.

In a lease from the state to a city the 90 day cancelation clause may not be waived or omitted. OAG May 18, 1942 (59-B-13).

92.51 LANDS SOLD ARE TAXABLE; REDEMPTION; SPECIAL CERTIFICATE.

In addition to the payment of all delinquent taxes, the owner in case of redemption is required to pay "all amounts paid by such holder and owner for interest and principal upon such land sale certificate, with interest at 12 per cent per annum." The statutes amending the rate of interest prescribed for delinquent taxes apply only to delinquent taxes, penalties, interest, and costs. OAG May 14, 1947 (412-A-9).