

MASON'S MINNESOTA STATUTES

1927

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EMBRACING THE ORGANIC LAWS, THE CONSTITUTION, AND THE STAT-
UTES CONTAINED IN THE GENERAL STATUTES OF 1923, EXCEPT
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BY THE SUBSEQUENT LEGISLATION OF 1925
AND 1927

AND ALSO EMBRACING LAWS OMITTED FROM THE GENERAL STATUTES
1923, AND THE LAWS OF THE 1925 AND 1927 SESSIONS OF THE
LEGISLATURE UNDER APPROPRIATE CLASSIFICATION.

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CHAPTER 48

OATHS AND ACKNOWLEDGMENTS

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OATHS

6963. Oath of office—The oath of office to be taken by members and officers of either branch of the legislature shall be that prescribed by sec. 29 of art. 4 of the constitution. Every person elected or appointed to any other public office whatsoever, including every official commissioner, or member of any public board or body, before transacting any of the business or exercising any privilege of such office, shall take and subscribe the oath defined in sec. 8 of art. 5 of the constitution. (2677) [5733]
 82-420, 85+155; 83-194, 86+20. Sufficiency of oath (104-252, 116+486).
 Cited (109-360, 123+1074).

6964. Trustees, referees, etc.—Unless otherwise provided by law, every executor, administrator, guardian, trustee, referee, arbitrator, viewer, assessor, appraiser, and other person appointed by or made responsible to the court in any action or proceeding, before entering upon his duties as such, shall take and subscribe the following oath:

I, A. B., do swear that I will faithfully and justly perform all the duties of the office and trust which I now assume as (insert brief description of office), to the best of my ability. So help me God. (2678) [5734]

Presumption that referee took oath (18-90, 72).

6965. Forms of oath in various cases—An oath substantially in the following forms shall be administered to the respective officers and persons hereinafter named:

1. To grand jurors:

You each do swear that you will diligently inquire, and true presentment make, of all public offences committed within this county of which you have legal proof; the counsel of the state and of yourself and fellows you will keep secret; you will present no per-

son through malice or ill-will, nor leave any unrepresented through fear or favor, or the receipt or hope of reward, but will present things truly to the best of your understanding and according to law. So help you God.

2. To petit jurors in civil actions:

You each do swear that you will impartially try the issues in this case, and a true verdict give; according to law and the evidence given you in court; your own counsel and that of your fellows you will duly keep; you will say nothing to any person concerning the case, nor suffer any one to speak to you about it, and will keep your verdict secret until you deliver it in court. So help you God.

3. To petit juries in criminal cases:

You each do swear that, without respect of persons or favor of any man, you will well and truly try, and true deliverance make, between the state of Minnesota and the defendant, according to law and the evidence given you in court. So help you God.

4. To officers attending grand juries:

You do swear that, as officer of the grand jury, you will keep their counsel and that of the state, and not disclose anything relative to their proceedings. So help you God.

5. To same in charge of petit juries:

You do swear that you will keep this jury together, and, so far as may be, secluded, so long as they shall remain in your charge; will suffer no one to communicate with or overhear them while deliberating upon their verdict; and will not by word or sign disclose, except to the court alone, anything that may come to your knowledge concerning their action in this case until they are duly discharged.

6. Same, in charge during recess:

You do swear that you will keep together this jury until they return into court, and that in the meantime you will suffer no one to speak to them, nor speak to them yourself, concerning the cause on trial, or any matter relating thereto.

7. To witnesses:

You do swear that the evidence you shall give relative to the cause now under consideration shall be the whole truth, and nothing but the truth. So help you God.

8. To interpreters:

You do swear that you will truly and impartially interpret to this witness the oath about to be administered to him, and the testimony he shall give relative to the cause now under consideration. So help you God.

9. To attorneys:

You do swear that you will support the constitution of the United States and that of the state of Minnesota, and will conduct yourself as an attorney and counselor at law in an upright and courteous manner, to the best of your learning and ability, with all good fidelity as well to the court as to the client, and that you will use no falsehood or deceit, nor delay any person's cause for lucre or malice. So help you God.

10. To affiants:

You do swear that the statements of this affidavit,

by you subscribed, are true. So help you God. (2679) [5635]

Subd. 1 (16-313, 277). Subd. 2 (22-173; 22-177; 23-528).
Subd. 5 (16-178, 157). Subd. 9 (104-88, 116+212). Subd. 10 (78-311, 81+3).

6966. Affirmation in lieu of oath—If any person of whom an oath is required shall declare that he has religious scruples against taking the same, the word "swear" and the words "so help you God" may be omitted from the foregoing forms, and the word "affirm" and the words "and this you do under the penalties of perjury" shall be substituted therefor, respectively, and such person shall be considered, for all purposes, as having been duly sworn. (2680) [5736]

6967. By whom and how administered—Any officer authorized by this chapter to take and certify acknowledgments may administer an oath, and, if the same be in writing, may certify the same under his official signature, and the seal of his office, if there be one, in the following form: "Subscribed and sworn to before me this.....day of.....19...." The mode of administering an oath commonly practiced in the place where it is taken shall be followed, including, in this state, the ceremony of uplifting the hand. (2681) [5737]

Defective form (59-6, 21, 60+676). By village recorder (68-378, 71+1). By deputy clerk of court (40-65, 41+459). Failure to raise hand is mere irregularity, which is no defense (108-121, 121+611).

6968. Officials may administer, when—All persons holding office under any law of this state, or under the charter or ordinances of any municipal corporation thereof, including judges and clerks of elections, and all committeemen, commissioners, trustees, referees, appraisers, assessors, and all others authorized or required by law to act or report upon any matter of fact, shall have power to administer such oaths as they may deem necessary to the proper discharge of their respective duties. (2682) [5738]

30-140, 14+581.

Cited (109-360, 123+1074).

6969. Oaths, where filed—Except as otherwise provided by law, the oath required to be taken and subscribed by any person shall be filed as follows:

1. If that of an officer of the state, whether elective or appointive, with the secretary of state.
2. If of a county officer, or an officer chosen within or for any county, with the county auditor.
3. If of a city, village, or borough officer, with the clerk or recorder of the municipality.
4. If of a town officer, with the town clerk.
5. If of a school district officer, with the clerk of the district.
6. If of a person appointed by, or made responsible to, a court in any action or proceeding therein, with the clerk of such court.
7. If that of a person appointed by any state, county, or other officer for a special service in connection with his official duties, with such officer.

Provided, that if the person taking such oath be also required to give bond, the oath shall be attached to or indorsed upon such bond and filed therewith, in lieu of other filing. (2683) [5739]

ACKNOWLEDGMENTS

6970. Form of certificate—The forms hereinafter given may be used in certifying the acknowledgment of written instruments, whether affecting real estate or not, and acknowledgments so taken and certified shall satisfy all requirements of law relating to the

execution and recording of such instruments. Every such certificate shall begin with a caption naming the state and the county or place wherein the acknowledgment was taken, and the official signature of the certifying officer, with the seal of his office, if there be one, shall be appended thereto:

1. In case of natural persons acting in their own right:

On this.....day of....., 19...., before me personally appeared A. B. (or A. B and C. D.), to me known to be the person (or persons) described in, and who executed, the foregoing instrument, and acknowledged that he (or they) executed the same as his (or their) free act and deed.

2. In case of natural persons acting by attorney:

On this.....day of....., 19...., before me personally appeared A. B., to me known to be the person who executed the foregoing instrument in behalf of C. D., and acknowledged that he executed the same as the free act and deed of C. D.

3. In case of corporations or joint-stock associations:

On this.....day of....., 19...., before me appeared A. B., to me personally known, who, being by me duly sworn (or affirmed), did say that he is the president (or other officer or agent) of (name of the corporation or association), that the seal affixed to the foregoing instrument is the corporate seal of said corporation (or association), (or, if it have no seal, that said corporation or association has no corporate seal), and that said instrument was executed in behalf of said corporation (or association) by authority of its board of directors (or trustees); and said A. B. acknowledged said instrument to be the free act and deed of said corporation (or association). (2684) [5740]

66-4, 68+111; 78-249, 80+1056; 93-303, 101+307; 154-477, 192+115.

An assignment defectively acknowledged, but otherwise regular on its face, gives the assignee the right to have execution to enforce the judgment. 159-458, 199+235.

6971. Corporate acknowledgment—Evidence—Every acknowledgment by or in behalf of a corporation or joint-stock association, made and certified substantially in the form prescribed in § 6970, shall be prima facie evidence of the facts therein recited, that such instrument was executed by authority of its board of directors or trustees, and that the execution and delivery thereof was authorized by law. (2685) [5741]

45-238, 47+792; 66-4, 68+111; 154-471, 192+112.

6972. Married persons—No separate examination of a married woman shall be required, but, if husband and wife join in and acknowledge the execution of any instrument, they shall be described in the certificate of acknowledgment as husband and wife; and if they acknowledge it before different officers, or before the same officer at different times, each shall be described in such certificate as the spouse of the other. (2686) [5742]

78-249, 80+1056.

6973. By whom taken in this state—The following named officers shall have power to take and certify acknowledgments within the state:

1. Every member of the legislature, so long as he shall remain such, and continue to reside in the district from which he was elected; but he shall receive no fee or compensation for so doing. The form of his official signature in such cases shall be: "A. B., Representative (or Senator).....District, Minnesota. My term expires January 1, 19...."

2. The judges and the clerks and deputy clerks of all courts of record, residing within the state, including those of the circuit and district courts of the United States, and resident United States commissioners.

3. Notaries public, justices of the peace, and the clerks or recorders of towns, villages, boroughs, and cities.

4. Court commissioners, registers of deeds, and county auditors, and their several deputies, and county commissioners, all within their respective counties. (2687) [5743]

6974. Instruments legalized—That all acknowledgments taken by any military officer since April 6, 1917, and prior to the passage of this act, of the execution of deeds, mortgages, contracts, bills of sale, power of attorney and of the execution of any and all other instruments of conveyance or instruments of any kind in any manner affecting real or personal property, or property of any kind in the state of Minnesota, are hereby legalized, made valid and effectual in all particulars. ('19 c. 409 § 2)

6975. Records legalized—That the records of any such instruments, described in the foregoing sections 1 and 2, where such instruments have been recorded as provided by law, are also declared legalized, valid and effectual in all particulars. ('19 c. 409 § 3)

6976. Certain acknowledgments legalized—That all acknowledgments taken by any Commissioner of Deeds for the State of Minnesota after his term of office had expired, together with the records thereof where the instrument bearing such acknowledgment has been recorded as provided by law, are hereby legalized and made valid and effectual for all purposes, and of the same force and effect as if taken during his term of office. ('23 c. 97 § 1)

6977. In other states—By whom taken—Deeds or other written instruments affecting property in this state may be acknowledged at any place within the United States or in any territory belonging thereto before, and such acknowledgments may be certified by, the following officers:

1. Any judge or justice of the supreme, circuit, or district courts of the United States, or of a court of record of any state, territory, or district therein.

2. The clerk and deputy clerk of any of said courts.

3. Any notary public or justice of the peace, or any commissioner appointed by the governor of this state for that purpose.

But no acknowledgment so certified shall be valid unless taken within the place or territory for which such officer was chosen, or to which the jurisdiction of the court of which he is an officer shall extend. (2688) [5744]

6978. Certificate, how authenticated—If any certificate authorized by § 6977 be signed by a commissioner appointed by the governor of this state, or by a notary public, clerk of court, or other officer having a seal of office, an impression whereof is affixed, no other authentication shall be required. If by an officer appointed by the governor of such other state or territory, and having no official seal, it shall be sufficient if accompanied by the declaration of the secretary of said state or territory, or his assistant or deputy, under the seal thereof, that at the purported date of said acknowledgment the person certifying held the office under which he assumed to act; or, in lieu thereof, the mode of authentication hereinafter prescribed may be used. In all other cases there shall be attached to such certificate a declaration of the clerk or other

certifying officer of a court of record of the county or district in which the acknowledgment was taken, under the seal of said court, that he knows the handwriting of the person who signed the same, that at the time of said purported acknowledgment such person held the office under which he then assumed to act, and that he believes the signature subscribed to said certificate to be genuine. (2689) [5745]

By deputy clerk of court of record in sister state (51-495, 53+870). By justice of the peace in sister state (24-161).

6979. In foreign countries—Such deeds or other instruments may be acknowledged in a foreign country before any notary public therein, or before any minister, charge d'affaires, commissioner, consul, or commercial agent, or other consular or diplomatic officer of the United States appointed to reside in such country, including all deputies or other representatives of such officers authorized to perform their duties. And the fact of such acknowledgment shall be certified by the officer taking the same, under his official signature, and his seal of office, if there be one. (2690) [5746]
45-277, 47+967.

6980. Power given for taking acknowledgments for protesting bills of exchange, etc.—Any person authorized to take acknowledgments or administer oaths, who is at the same time an officer, director or stockholder of a corporation, is hereby authorized to take acknowledgments of instruments wherein such corporation is interested, and to administer oaths to any officer, director or stockholder of such corporation as such, and to protest for non-acceptance or non-payment bills of exchange, drafts, checks, notes and other negotiable or non-negotiable instruments which may be owned or held for collection by such corporation, as fully and effectually as if he were not an officer, director or stockholder of such corporation. ('07 c. 406 § 1, amended '15 c. 20 § 1) [5747]

6981. Execution according to foreign law—If the instrument be made out of the state, and in accordance with the laws of the place of execution, the fact that it was executed according to such laws shall be proved as follows:

1. If within the United States, 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, under the seal of such court, or by the secretary of the state or territory, under the seal thereof.

2. If in a foreign country, by the certificate of an officer of the United States authorized by this chapter to take acknowledgments therein, under his seal of office, if there be one. (2691) [5748]

If a vendor tenders a deed which does not comply with our laws, but executed in accordance with the laws of a foreign state, the exclusive method of proving that it was so executed is by certificate. 210+586.

6982. Soldiers and sailors abroad—Any person enlisted or employed in the military or naval service of the United States, and being at any place not within the boundaries of a state thereof, may acknowledge instruments affecting property in this state before any commissioned officer of the United States army or navy, which officer shall certify thereto under his official signature. And, in addition to the other facts required to be stated therein, the certificate shall state that the person so acknowledging, at the time thereof, was employed in such military or naval service, either as an enlisted man, or in some other capacity therein named. (2692) [5749]

6983. **Acknowledgments after expiration of commission—Curative**—That all acknowledgments to any conveyances or other instruments heretofore taken by any person previously appointed or elected and then acting after the expiration of his term as a notary public or other officer authorized to take such acknowledgments, be, and the same are hereby, legalized and made of the same validity as though the term of office of such officer had not expired at the time of taking such acknowledgments, and the record of such conveyances or other instruments is hereby declared to be legal and valid, and effectual for all purposes; provided, that the provisions of this act shall not apply to any action or proceeding now pending in any court of this state. ('05 c. 50 § 1) [5750]

6984. **Acknowledgments before notary of detached county, etc.—Curative**—That all acknowledgments to any conveyances or other instruments heretofore taken, pending proceedings to determine the legality of any new county detached from another county, by a notary public residing in such new county, but using the seal of and laying the venue in such other county, be and the same are hereby legalized and made of the same validity as though taken in such other county before a notary public residing therein; and the record of such conveyances or other instruments are hereby declared to be legal and valid and effectual for all purposes; provided, that the provisions of this act shall

not apply to any action or proceeding now pending in any court of this state. ('05 c. 275 § 1) [5751]

6985. **Acknowledgments before officer of corporations, etc.—Curative**—That all acknowledgments heretofore taken by a notary public who was also an officer, director or stockholder of a corporation organized under the laws of this state which corporation was interested as a party to the instruments acknowledged, are hereby legalized and made as effectual as if the notary public had not been an officer, director or stockholder of the corporation interested. ('07 c. 89 § 1) [5752]

Explanatory note—Laws '07, c. 89, § 2 (G. S. '13, § 5752) provides that the act shall not apply to any case where an action was then pending.

6985-1. **Conveyances where acknowledgments thereto were taken by grantees legalized**—That all conveyances of real property heretofore made in the years 1923 and 1924 in which the acknowledgment of the grantors to the execution of said deed has been taken by one of the grantees in said deed, said grantee being a proper officer duly authorized to take acknowledgments under the laws of this state, shall be in all respects legal and valid as fully as though all the provisions of law in regard to said acknowledgment had been fully complied with.

Provided, that the provisions of this act shall not apply to any action or proceeding now pending in any court of this state. ('25, c. 312, § 1)

1940 Supplement
To
Mason's Minnesota Statutes
1927

(1927 to 1940)
(Superseding Mason's 1931, 1934, 1936 and 1938
Supplements)

Containing the text of the acts of the 1929, 1931, 1933, 1935, 1937 and 1939 General Sessions, and the 1933-34, 1935-36, 1936 and 1937 Special Sessions of the Legislature, both new and amendatory, and notes showing repeals, together with annotations from the various courts, state and federal, and the opinions of the Attorney General, construing the constitution, statutes, charters and court rules of Minnesota together with digest of all common law decisions.



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The effect of an unconstitutional statute in the law of public officers: Effect on official status. 13MinnLaw Rev439.

Removal from public office in Minnesota. 20MinnLaw Rev 721.

Governor's constitutional powers of appointment and removal. 22MinnLawRev451.

Evidence before administrative tribunals. 23MinnLaw Rev68.

6955. Special commissioner to take testimony.
179M337, 229NW313.

6957. Appointment—How long to continue—Impeachment.

Vacancies in elective county, municipal or school district offices may not be filled by the person having the power of appointment. Laws 1939, c. 249.

No lawful ballots can be cast for office of sheriff at a general election unless term of incumbent, whether elected or appointed, expires on first Monday of Janu-

ary following such election. State v. Borgen, 189M216, 248NW744.

"Next general election" means one occurring after there is sufficient time after vacancy to give notice required by law that vacant office is to be filled at election. State v. A., 202M50, 277NW357. See Dun. Dig. 7988(27).

There must be a vacancy before an election to fill it can be ordered, and an election to fill an anticipated vacancy may not be validly held unless there be constitutional or statutory authority for it. State v. Holm, 202M500, 279 NW218. See Dun. Dig. 7990.

The provisions of Laws 1929, c. 413, prevail over this section, and a person appointed to fill a vacancy in a village office holds until the expiration of the term, and not merely until the next municipal election. Op. Atty. Gen., Nov. 13, 1931.

Vacancy in office of county commissioner is to be filled by full membership of city council where district lies wholly within city, though only part of council are elected from district, and term of appointee expires at beginning of official year next following next general election. Op. Atty. Gen. (124k), Aug. 25, 1934.

CHAPTER 48

Oaths and Acknowledgments

OATHS

6963. Oath of office.

A director of an independent school district who has taken an oath of office need not take a second oath when chosen as treasurer by the members of the school board. 171M376, 214NW258.

A public officer, on conviction of violation of the federal liquor laws, forfeits his office. Op. Atty. Gen., Feb. 10, 1930.

Failure of village treasurer to qualify by filing bonds does not ipso facto create vacancy. Op. Atty. Gen. (456g), Feb. 18, 1937.

Executive secretary of county welfare may not be required to execute a fidelity bond, but it would not be unlawful for board of control to pass a resolution providing that it is desirable that such secretary give a fidelity bond to be filed as other bonds and paid for by county, and a bond so voluntarily given would be enforceable. Op. Atty. Gen. (104a-2), Aug. 25, 1937.

6965. Forms of oath, etc.

Attorneys suspended for misconduct. 177M203, 225 NW97.

6967. By whom and how administered.

When signatures are proved it is presumed that an affidavit was actually sworn to by person who signed as affiant, and if proof does not embrace a fact necessary to negative taking of affidavit, presumption will save it. Siewert v. O., 202M314, 278NW162. See Dun. Dig. 139.

List of officers authorized to administer oaths and take acknowledgments and requirements as to attachment of seal stated. Op. Atty. Gen., Mar. 23, 1933.

ACKNOWLEDGMENTS

6970. Form of certificate.

Bond of city officer held sufficient to require its acceptance by city council though it contained no provision "for the use of all persons interested" and was executed for surety by "attorney" instead of "attorney-in-fact." State v. City of Eveleth, 196M307, 265NW30. See Dun. Dig. 82.

Probate court reporter need not attach seal to his acknowledgments. Op. Atty. Gen. (346g), May 22, 1935.

A deed written in English language except as to acknowledgment which is in a foreign language, is not entitled to record. Op. Atty. Gen. (373b-9(a)), Jan. 7, 1937.

6971. Corporate acknowledgment—Evidence.

State v. City of Eveleth, 196M307, 265NW30; note under §6970.
Op. Atty. Gen., March 23, 1933; note under §6967.

6973. By whom taken in this state.

Probate court reporter need not attach seal to his acknowledgments. Op. Atty. Gen. (346g), May 22, 1935.

Wheat inspectors and supervisors of wheat inspectors do not have authority to take acknowledgment for purpose of presenting verified claim for weed eradication. Op. Atty. Gen. (322a-1), Nov. 1, 1937.

Oath may not be administered by a postmaster on claim for gasoline tax refund. Op. Atty. Gen. (834), Jan. 16, 1939.

6974. Instruments legalized.

Acknowledgments legalized. Laws 1939, c. 47, app. March 4.

6977. In other states—By whom taken.

There is no requirement that fact of residence of notary be specifically stated in acknowledgment. Op. Atty. Gen. (410), Sept. 1, 1939.

6979. In foreign countries.

A deed written in English language except as to acknowledgment which is in a foreign language, is not entitled to record. Op. Atty. Gen. (373b-9(a)), Jan. 7, 1937.

6981. Execution according to foreign law.—All deeds and other instruments may be executed and acknowledged in a foreign country in accordance with the laws of the place of execution.

If the instrument be made out of the state, and in accordance with the laws of the place of execution, the fact that it was executed according to such laws, shall be proved as follows:

1. If within the United States, 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, under the seal of such court, or by the secretary of the state or territory, under the seal thereof.

2. If in a foreign country, by the certificate of an officer of the United States authorized by this chapter to take acknowledgments therein, under his seal of office, if there be one.

3. If there be no such officer of the United States therein, then by the certificate of a counselor or diplomatic officer of any other nation with which the United States has diplomatic relations, in which case, the seal of such consular or diplomatic officer shall be certified by his Foreign Office or by the diplomatic representative of such nation in the United States.

4. Any instrument heretofore or hereafter executed, acknowledged and certified as provided herein, shall entitle such instrument to be admitted and read in evidence in all courts and elsewhere without other proof of execution. (R. L. '05, §2691; G. S. '13, §5748; Apr. 18, 1931; c. 201.)

(1).

If an instrument is executed in accordance with the laws of the place of execution, it is entitled to record in this state, provided there is attached thereto a certificate of the clerk or other certifying officer of the court of record of the county or district so showing. Op. Atty. Gen., Aug. 7, 1931.

6983. Acknowledgments after expiration of commission—Curative.

Laws 1929, c. 169, and Laws 1929, c. 214, legalizes acknowledgments taken by person after expiration of term.

6985-2. Mortgages and satisfactions of same where seal of notary does not contain name of county legalized.—All mortgages on real estate and satisfactions of mortgages on real estate, heretofore duly made and executed and where such instrument has been acknowledged as provided by law, but the notarial seal affixed, thereto, did not bear the name of the county in which the notary resided, are hereby validated and legalized and the recording thereof, in cases where such mortgages on real estate or satisfactions of mort-

gages on real estate, have heretofore been recorded, are hereby validated and legalized. (Act Apr. 8, 1939, c. 151, §1.)

6985-3. Not to affect pending actions—Limitation.—Nothing herein contained shall affect any action now pending or commenced within 6 months from and after the passage of this act to determine the validity of any instrument validated hereby. (Act Apr. 8, 1939, c. 151, §2.)

CHAPTER 49

Fees

6987. Fees of clerk of district court.

* * * * *

In actions for partition of land or proceedings in assignments for the benefit of creditors, and proceedings under the right of eminent domain, the court, or a judge thereof, may by order from time to time fix the amount which may be charged and collected, which may be in excess of the amounts hereinbefore provided, except, however, no fee shall be allowed the clerk of court for receiving and paying over any money deposited with the clerk of court where the money is paid or deposited by or for the State of Minnesota, pursuant to Mason's Minnesota Statutes of 1927, Section 6546. (As amended Apr. 12, 1937, c. 187, §1.)

* * * * *

Sec. 2 of Act Apr. 12, 1937, cited, provides that the Act shall take effect from its passage.

Fees earned by clerk of district court, but outstanding on account should be included in the statement. Op. Atty. Gen., Jan. 7, 1932.

Fees received by clerk of district court under section 2097 should be included in the statement. Op. Atty. Gen., Jan. 7, 1932.

Clerk of court paid salary under Laws 1919, c. 229, which specifically exempts real estate tax proceedings, is entitled to fees set forth in §2125 in connection with answers in delinquent real estate tax proceedings. Op. Atty. Gen. (144b-15), July 1, 1936.

Prevailing county in pauper settlement cases is entitled to clerk costs. Op. Atty. Gen. (144b-15), Apr. 12, 1938.

Where person was convicted of violation of ordinance in municipal court and appealed and was found not guilty in district court, clerk of district court is entitled to his fees from city. Op. Atty. Gen. (144b-15), Apr. 14, 1938.

(24).

Judgment confessed under §2176-11 is not a judgment to which abstractor or clerk of court must certify as a judgment. Op. Atty. Gen. (520b), Apr. 20, 1936.

Each individual name submitted as part of an entity constitutes a single "judgment debtor." Op. Atty. Gen. (144b-15), Nov. 24, 1936.

(46).

This section applies to a default action to foreclose a real estate mortgage though the action is tried to the court, and clerk's fees are limited to \$4.00. Op. Atty. Gen., Apr. 27, 1931.

(47).

Amended Apr. 12, 1937, c. 187.

6987-1. Fees of the clerk of the District Court.

In any county of this state where incumbents of the office of clerk of the district court prior to the incumbent holding office at the time of the passage of this act have neglected for six years to enter or file papers or other documents or index the same in such office which should have been entered or filed by them, and as a result thereof the county records are incomplete, the board of county commissioners may agree with the clerk of the district court to properly enter or file all such papers and documents and index the same, and for such work may pay such clerk in addition to the salary and clerk hire provided by law, the fees provided for such work by General Statutes 1923, Section 6987; provided, that no such extra fee shall be paid for the doing of any work which should have been done by such incumbent. (Act Apr. 16, 1929, c. 207.)

6990. Clerks' fees to be retained in certain counties.

Op. Atty. Gen., Jan. 15, 1934; note under §2720-127.

6991. Fees, when paid—other fees.

In order to effect a change of venue, the deposit fee must be paid within the prescribed time. 178M617, 225 NW926.

Deposit of plaintiff is liable for filing fee incurred by defendant and fee for swearing witnesses, irrespective of entry of judgment taxing such items of disbursement after verdict for defendant. Op. Atty. Gen. (144b-9), Dec. 2, 1935.

Clerk is not entitled to deposit under §6991 for entering confessed judgment under Laws 1939, c. 91, §4. Op. Atty. Gen. (144B-16), April 27, 1939.

6992. Fees to be paid by the appellant, etc.

State appealing direct to supreme court from order of probate court determining inheritance taxes may not pay fee to the supreme court. Op. Atty. Gen. (6m), Aug. 3, 1936.

On appeal by the state to the supreme court from probate court, state need not pay the \$10 to cover fees in supreme court but must pay \$5 covering return of certified copy of notice of appeal and bond, and must pay fees for transcript, certified copies, etc., such fees not going to the state. Op. Atty. Gen. (346c), Aug. 12, 1936.

6993. Fees of sheriffs.

Special Laws 1887, c. 363, creates a fee bill for Ramsey County. It was repealed by Laws 1911, c. 147.

Special Laws 1891, c. 373, §3, establishes a fee bill for Hennepin County. This act has never been repealed.

See notes under §923 enumerating local laws affecting fees and compensation of sheriffs and their deputies.

Sheriff is entitled to mileage both going and returning from serving papers. Op. Atty. Gen., Feb. 14, 1929.

Sheriff in selling pledged property at auction under Mason's Stat. 1927, §8561, is entitled to \$1.50 for posting notices and \$3.00 for the sale. Op. Atty. Gen., May 20, 1929.

Deputy sheriff is not entitled to compensation to which the sheriff is not entitled. Op. Atty. Gen., May 17, 1930.

Sheriff is entitled to mileage for distance actually traveled, and where he receives flat rate for use of his automobile he is not entitled to mileage. A per diem is not allowable unless given by statute. Op. Atty. Gen., June 17, 1930.

County clerk is charged only with duty of preparing original citations in delinquent personal property tax proceedings, and it is the duty of the sheriff to prepare such copies as he needs for service, for which he may be allowed a reasonable compensation. Op. Atty. Gen., Aug. 1, 1930.

Sheriff is not entitled to a fee from the county for selling property on execution under a judgment in favor of county against sureties on a depository bond. Op. Atty. Gen., Dec. 23, 1930.

Sheriff is not entitled to charge any fees for time spent in appearing in habeas corpus proceedings. Op. Atty. Gen., May 6, 1931.

This section is affected as to the sheriffs of some counties by Laws 1931, c. 331, ante §§254-47, 254-48. Op. Atty. Gen., May 23, 1931.

A sheriff transporting a feeble-minded person to a state institution is entitled to reimbursement for his actual expenses in transporting the person mentioned, and where he uses his own car the expense may exceed seven cents per mile while the feeble-minded person is in the car. Op. Atty. Gen., June 15, 1931.

The general fee statute with reference to sheriffs is superseded by Laws 1917, c. 312, fixing the salaries of sheriffs in certain counties, and the sheriff of a county under that law is not entitled to fees or mileage for serving a criminal warrant. Op. Atty. Gen., Nov. 27, 1931.

Limit of indebtedness which may be contracted by county in anticipation of uncollected taxes pursuant to