

CHAPTER V.

An Act to increase the Salaries of certain Territorial officers.

- SECTION 1. Increase the salary of the Auditor.
 2. Increase the salary of the Treasurer.
 3. Increase the salary of the Superintendent of Common Schools.
 4. Duties of Notary Public.
 5. Counting votes at elections.
 6. Providing for election of Justices of the Peace.
 7. Providing for election of County Commissioners.
 8. Recording town plats and fees therefor.
 9. Judgments to draw interest.
 10. When the defendant in action claims a lica.
 11. Duties of Sheriff.
 12. When plaintiff is entitled to judgments, &c.
 14. Fees in certain cases.
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 16. Fees of Judge of Probate.
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 21. Conditions of admittance to the Bar.
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 22. Depositions.
 23. Notice of time for holding Courts, how given.
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 25. Duty of County Treasurer.
 26. Destruction of Ardent Spirits.

Be it enacted by the Legislative Assembly of the Territory of Minnesota:

SECTION 1. Section 10 of article 1, of chapter 4 of the Revised Statutes, on page 40, is hereby amended so as to read as follows :

Sec. 10—There shall be allowed annually to the Auditor of this Territory, the sum of five hundred dollars in full compensation for all his services. Salary of Auditor

SEC. 2. Section 5, of article 2, of chapter 4, of the Revised Statutes, on page 41, is hereby amended so as to read as follows :

Sec. 5—There shall be allowed annually to the Treasurer of this Territory, the sum of five hundred dollars in full compensation for all his services. Salary of Treasurer.

SEC 3. Sections 3, of article 4, of chapter 4, of the Revised Statutes added by an amendment thereto, on page 30 of the amendments to the Revised Statutes, is hereby amended so as to read as follows :

Sec. 3—The said Superintendent of Common Schools, shall receive an annual salary of five hundred dollars, payable semi-annually out of the Treasury of this Territory. Salary of Superintendent of Common Schools

SEC. 4. Section 5, of article 6, of chapter 4, of the Revised Statutes, on page 43, is hereby amended so as to read as follows :

Sec. 5.—It should be the duty of every Notary Public to serve the notice of protest upon the person or persons protested against, personally, or by depositing the same in the Post Office properly enveloped and directed Notaries Public.

to each of them, at the Post Office nearest the reputed place of residence of such person or persons, or by leaving a copy of such notice at the usual place of residence of each person or persons, with some person of suitable age and discretion to deliver the same.

SEC. 5. Section 49 of the Revised Statutes, on page 53, is hereby amended so as to read as follows :

Election returns

Sec. 49—The Clerk of the Board of County Commissioners and Register of Deeds as aforesaid, shall not construe the Statutes, concerning the opening of the election returns, so as to decide all matters of law and fact themselves, but the Clerk and Register aforesaid, and the two justices they shall call to their assistance, shall constitute a board, a majority of whom shall decide all matters of disagreement, and the said board shall disregard technicalities and misspelling, the use of initial letters or abbreviations of the names of candidates for office, if it can be ascertained from such votes for whom they were intended, but they shall not count votes polled in any place but established precincts, and a breach of the provisions of this section shall be deemed a misdemeanor in office, and punished accordingly.

SEC. 6. Section 1, of chapter 9, of the Revised Statutes, on page 85, is hereby amended so as to read as follows :

Election of Justices.

Sec. 1—There shall be elected by the qualified voters of each precinct of the organized counties of this Territory, two Justices of the Peace, whose term of office shall continue two years, and until a successor shall have been elected and qualified. Every Justice of the Peace elected as aforesaid, shall be a resident of the precinct for which he may be elected.

SEC. 7. A new section is hereby added to chapter 10 of the Revised Statutes on page 89, at the end of said chapter, as follows :

Fill vacancy in the Board of County Commissioners.

Sec. 9—Whenever the office of County Commissioner shall become vacant for any causes, in any of the organized counties of this Territory, the Register of Deeds, District Attorney, Judge of Probate, Sheriff and Treasurer of the county in which said vacancy shall occur shall have power to meet at the office of Register of Deeds and fill said vacancy. It shall be the duty of the Sheriff, when any such vacancy shall occur to notify the other officers above named of the time when said officers will meet to supply said vacancy, which said notice shall be in writing, and shall be served at least three days before the day of said meeting. Upon the day mentioned, upon proof being made that said notice has been served upon all said officers, or that they could not be found in the county, any three of them who may appear, may proceed to fill said vacancy, and in all cases a majority of those present shall have power to appoint.

SEC. 8. Section 8, of chapter 31, of the Revised Statutes, on page 151 is hereby amended so as to read as follows :

Town Plats.

Sec. 8—The surveyors who shall lay out, survey and plat any town, or addition thereto, shall be entitled to receive twenty-five cents for each and every in and out lot the same may contain, unless otherwise agreed, and every Register of the County recording the same, shall receive the sum of five cents for each and every lot as aforesaid ; the plat and survey to be by him transcribed or copied into a book, or upon suitable paper, to be formed into an unbound volume, with covers for careful preservation, to be provided by the County Commissioners for that purpose ; Provided, that the original of said plat and survey may be incorporated in said volume, and shall in all respects form the true record of the same, in which case the Register shall receive the sum of two cents for each and every lot as aforesaid.

SEC. 9. A new section is hereby added to chapter 10 of the Revised Statutes, on page 155, at the end of said chapter, as follows :

Sec. 3.—All judgments that may be hereafter recovered in any ^{Judgments.} Court of this Territory, shall, from and after the rendition of the same, draw interest at the rate of twelve per cent. per annum.

SEC. 10. Section 50, on page 335 of the Revised Statutes, is hereby amended by adding the following clause :

“When the subject of the action is real or personal property in this Territory, and the defendant has or claims a lien, actual or contingent therein, or the relief demanded consists wholly or partly in excluding the defendant from any interest or lien therein.” ^{Lien.}

SEC. 11. Section 5, of chapter 3 of the General Laws of this Territory passed March 5, 1853, is hereby repealed, and the following subdivision is hereby added to section 141, on page 346 of the Revised Statutes :

4th.—The Sheriff shall serve a copy of the warrants of attachments and ^{Sheriffs to serve} inventory certified by him upon the defendant, if he can be found within ^{warrants.} the county, and he is a resident thereof, the said sheriff shall leave such copy at the usual place of abode of the said defendant.

SEC. 12. Section 6, of chapter 11 of the General Laws of this Territory, passed March 5, 1853, is hereby repealed, and subdivision three of section 165, page 350, of the Revised Statutes is hereby amended so as to read as follows :

When the service of the summons was by publication, or by leaving a copy of the same at the last usual place of abode of the defendant, in actions arising upon contract for the payment of money only, the plaintiff on filing with the Clerk, proof of such service, and that no answer has been received within twenty days after such service, together with the security hereinafter mentioned, to be approved by clerk, shall be entitled to judgment in the same manner as if the summons had been served upon the defendant personally ; in actions other than those arising upon contract for the payment of money only, upon filing the like proof, the plaintiff may apply to the Court, shall thereupon require proof to be made of the fact stated in the complaint, and may thereupon render judgment for the plaintiff for such sum, or other relief, as he is entitled to recover or receive in the action. “In all cases where the summons has not been served upon the defendant personally, the plaintiff, before judgment is entered,” must file, or cause to be filed, satisfactory security to abide the order of the Court touching the restitution of any property or money collected or received under or by virtue of the judgment ; in case the defendant or his representatives shall thereafter apply and be admitted to defend the action and shall succeed in the defence. ^{When plaintiffs are entitled to judgment.}

SEC. 14. Subdivision 1, of section 7, on page 371 of the Revised Statutes is hereby amended so as to read as follows :

1.—To the plaintiff for all proceedings before notice of trial (including judgment when entered) in an action arising on obligations for the recovery of money only, seven dollars ; in other actions and in all cases where an application to the Court for judgment is necessary, twelve dollars. ^{Costs.}

SEC. 15. Subdivision 6, of section 7, on page 371 of the Revised Statutes is hereby amended so as to read as follows :

6.—To either party, when any action has been removed to the Supreme Court before argument, twenty dollars ; for argument thirty dollars. ^{Costs}

SEC. 16. Section 5, of chapter 73, on pages 378 and 379, of the Revised Statutes is hereby amended so as to read as follows, where the same is changed :

Fees of Judges
of Probate.

For granting letters of administration, when not contested or approved, three dollars; when contested, five dollars; hearing any complaint, petition or action, two dollars; hearing any application for the appointment of a guardian, two dollars; appointing a guardian, one dollar; and when one guardian shall be appointed for more than one person at the same time, fifty cents for each person after the first for whom such guardian shall be appointed; decree of probate of a will, when not contested, two dollars; when contested, five dollars; decree for settling an estate, two dollars; partition of real estate, two dollars and fifty cents; warrant to appraise and divide an estate, one dollar and fifty cents; issuing a commission to examine and allow claims against an estate, one dollar and fifty cents; order an allowance to widows, or children under seven years of age, one dollar and fifty cents; approving securities of executors or others, one dollar; appointment of agent on petition of real estate, one dollar and fifty cents; each order for sale of real estate to pay debts of an estate, two dollars; each order for sale of personal estate, one dollar; order for publication of any notice, or any ordinary order in proceeding before him, fifty cents; granting reference of accounts of executors or administrators, or allowing report thereon, one dollar; disallowing application for letters of administration or probate of will to be paid by the party applying, two dollars; for a warrant to set off dower, one dollar; proportioning an insolvent estate among the creditors, two dollars; order for distribution, one dollar and fifty cents; extending time for settling an estate, fifty cents; examining and allowing claims against an estate, fifty cents; ordering and drawing a quietus, one dollar; for all services required by law to be performed by judges of probate, for which a compensation is not herein provided, such fees as shall from time to time be established by the Supreme Court, by general rules, corresponding as near as may be with the rates herein specified; *Provided*, that the amount of fees taxed by any judge of probate, in his own behalf in any case not contested, shall in no case exceed twenty-five dollars; unless the same be audited and certified to be just by any Judge of the District Court of the County.

Sec. 17. Section 26 of chapter 73, of the Revised Statutes, on page 384 is hereby amended by adding at the end of the first paragraph of said section the following proviso:

Provided, however, that no juror shall receive any per diem, or allowance for travel, by virtue of this statute, for any such attendance, or for any travel for which he shall draw pay from the United States, and all certificates issued by the Clerk of the District Court, for the services of jurors, shall, before being paid by the Treasurer of the County, be presented to the Board of County Commissioners of the County, and audited by them, and countersigned by the chairman of said Board, and it is hereby made the duty of the Clerks of the Boards of County Commissioners to keep a record of all certificates presented, which record shall show the time of such presentation, the name of the party presenting the same, and the amount thereof.

Per diem of Ju-
rors.

Sec. 18. Section 11, on page 414, of the Revised Statutes is hereby amended so as to read as follows:

Sec. 11.--An appeal may be taken to the Supreme Court, or brought there from another Court, and upon the appeal from such judgment the Court may review any intermediate order involving the merits or necessarily affecting the judgment. 2. From an order granting or refusing a provisional remedy, or which grants, refuses or dissolves an injunction.--

Appeals.

3. From an order involving the merits of the action or some parts thereof.
 4. From an order granting a new trial. 5. From an order which, in effect, determines the action and prevents a judgment from which an appeal might be taken. 6. From a final order affecting a substantial right made in a special proceeding, or upon a summary application in an action after judgment.

Sec. 19. Section 18 on page 415 of the Revised Statutes is hereby amended so as to read as follows :

Sec. 18.—In an action arising on contract for the recovery of money only, notwithstanding an appeal and security given for a stay of proceedings therein, if the respondent gives adequate security to make restitution in case the judgment is reversed or modified, he may, upon leave obtained in the manner hereinafter provided from the Court below, proceed to enforce the judgment. Such security must be an undertaking executed to the appellant, by at least two sufficient sureties, to the effect that if the judgment be reversed or modified, the respondent will make such restitution as the appellate Court may direct. Such leave shall only be granted upon motion, and notice to the adverse party, and in case when it shall satisfactorily appear to the Court that the appeal has been taken for the purpose of delay.

When Respondent gives adequate security.

Sec. 20. That section three, (3) chapter ninety-three (93) of the Revised Statutes, on page 459, passed at the second session of the Legislative Assembly, be amended so as to read as follows :

Sec. 3.—For the purpose of admission he must apply to the Supreme Court or any District Court of the Territory when in session, and must show first, that he is of the age of twenty-one years, which proof may be made by his own affidavit; and second, that he is a person of good moral character, which may be proved by certificate or other evidences satisfactory to the Court.

Condition of admission to practice law.

Sec. 21. That section six, (6) of chapter ninety-three (93) aforesaid, be amended so as to read as follows :

Sec. 6.—No person can be admitted to practice as an Attorney and Counsellor, except on application to the Supreme or any District Court in term, and when so admitted, may practice in any of the Courts of this Territory.

Must apply to Supreme or District Court.

Sec. 22. Sections 25, 26 and 27, on page 475, of the Revised Statutes are hereby amended so as to read as follows :

Sec. 25.—The deposition of any witness without this Territory may be taken under a commission issued to any competent person in any State or County, by the Court in which the cause is pending, or upon a reference as hereinafter provided; and the deposition may be used in the same manner and subject to the same conditions and objections as if it had been taken in this Territory.

Depositions out of this Territory.

Sec. 26.—No commission shall be issued to take testimony out of this Territory, except in the following cases :

When commissions to be issued.

1st. When an issue has been joined in an action in a court of record in this Territory, and it shall appear on the application of either party that any witness not residing in this Territory, is material in the prosecution or defence of such action, and that the due notice of such application was served upon the adverse party at least ten days before the application is made.

2nd. When, in an action commenced in a Court of Record in this Territory, the time for answering the complaint shall have expired, and the defendant shall not have answered or demurred to the said complaint, and

it shall appear upon the application of the plaintiff that the testimony of any witness not residing in this Territory is material and necessary to establish the facts stated in the complaint, and to enable the Court to render judgment in such action.

Taking depositions.

SEC. 22. When the application is made in behalf of the plaintiff in an action wherein no answer or demurrer to the complaint has been interposed, the Court may, in its discretion, order a reference to one or more competent persons in any State or County to take such depositions, and report the same to the Court in the same manner as testimony is taken and reported by referees within the Territory. In all other cases such depositions shall be taken under a commission, and upon written interrogatories, to be exhibited to the adverse party or his Attorney, and cross interrogatories to be filed by him, if he shall think fit; *Provided*, that the parties may, by stipulation in writing, agree upon any other mode of taking depositions, and when taken pursuant to such stipulation, they may be used upon the trial with like force and effect in all respects as if taken upon the commissions and written interrogatories as hereinafter provided.

Notice of holding Courts.

SEC. 23. That whenever any term or terms of Court as authorized by law to be held in any County and no time specified for holding the same, *it shall be the duty of the Judge of the District, of which such County shall compose a part, to order and prescribe the time for holding the term or terms for such County by causing a copy of the order to be filed in the office of the Clerk of the District Court in such County, and cause the same to be published in some newspaper in such County, and in one paper published in the City of St. Paul, at least six weeks before the time of holding said terms; if no paper be published in such County, then in a paper published in some adjoining County, having a circulation in such County.*

Duty of Clerks of Courts.

SEC. 24. Such Clerk of the District Court shall file in the office of the Clerk of the Board of County Commissioners of his county, an attested copy of such order filed in his office, and shall deliver to the sheriff of his county a like attested copy of such order.

Duty of County Treasurer.

SEC. 25. That section four, of article three, of chapter eight, pages 64 and 65, is amended so as to read as follows: Sec. 4.—It shall be the duty of the County Treasurer to receive all moneys due and accruing to the county, to pay and disburse the same on orders drawn by the Board of County Commissioners of their county, attested under seal by the clerk of said Board, and not otherwise; *Provided*, that the first moneys which may be returned by the collector from the duplicate of any year, shall be appropriated to the payment of the amount due the Territory for that year from the county, which amount shall be paid to the Territorial Treasurer on or before the first Monday of February in each year, in gold and silver coin or Territorial Auditor's warrants, and the County Treasurer shall receive out of the Territorial Treasury five cents per mile to and from said Treasurer's residence to the capitol of this Territory, and two dollars per diem for all reasonable time in performing the same.

Destruction of Liquor.

SEC. 26. Section 4 of chapter 31 of the Laws of 1854 is hereby amended so as to read as follows, viz:—It shall be lawful for any person in the service of the United States, or for any officer appointed or elected under the provisions of any law of this Territory, to take and destroy any ardent spirits or wine found within that portion of this Territory before

mentioned, excepting military supplies, as mentioned in the first section of this act.

CHARLES GARDNER,
Speaker of the House of Representatives.
JOHN B. BRISBIN,
President of the Council.

APPROVED—March first, one thousand eight hundred and fifty-six.
W. A. GORMAN.

I hereby certify the foregoing to be a correct copy of the original bill on file in my office.

J. TRAVIS ROSSEB,
Secretary of Minnesota Territory.

CHAPTER VI.

An Act prescribing the manner in which Corporations may convey Real Estate.

- SECTION 1. May convey the same by an agent appointed by vote.
2. Copy of such vote to be recorded.

Be it enacted by the Legislative Assembly of the Territory of Minnesota:

SECTION 1. Every public or private Corporation authorized to hold Real Estate, may convey the same by an agent appointed by vote for that purpose. Convey by an agent.

SEC. 2. Whenever the corporators, members, stockholders, trustees or directors of any Corporation, shall, by a vote or resolution, appoint an agent to convey the real estate of such Corporation, a copy of such vote or resolution certified by the Clerk or Secretary of such Corporation, may be recorded in the office of the Register of Deeds of the county in which the real estate to which such vote or resolution relates, may be situated. And such vote or resolution, when so certified, and the record thereof when so recorded in the office of the Register of Deeds, or a transcript of such record duly certified, may be used in evidence in the same manner and with like effect as a conveyance recorded in such county. Record of appointment.

CHARLES GARDNER,
Speaker of the House of Representatives.
JOHN B. BRISBIN,
President of the Council.

APPROVED—March first, one thousand eight hundred and fifty-six.
W. A. GORMAN.

I hereby certify the foregoing to be a correct copy of the original bill on file in this office.

J. TRAVIS ROSSEB,
Secretary of Minnesota Territory.