

GEO. W. GREEN,
Speaker *pro tem.* of the House of Representatives.

IGNATIUS DONNELLY,
President of the Senate.

Approved February twenty-first, one thousand eight hundred and sixty.

SECRETARY'S OFFICE, MINNESOTA, }
February 21st, 1860. }

ALEX. RAMSEY.

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

J. H. BAKER, Secretary of State.

CHAPTER XV.

An Act to provide for County Organization and Government.

- ARTICLE 1. Sec. 1. Powers, rights, duties, and privileges to remain as now established.
2. Powers of County as a body corporate.
 3. Real estate already conveyed deemed property of County.
 4. Powers of County to be exercised only by County Commissioners.
 5. Lands of county may be conveyed by agents.
 6. County to provide necessary buildings.
 7. County to reimburse money recovered from Sheriff.
 8. Actions against county may be prosecuted in District Court of same.
 9. Actions where county is plaintiff may be prosecuted in county where defendant resides.
 10. Suits between counties to be conducted in like manner as between individuals.
 11. Suits to be in name of County Commissioners.
 12. Process to be served on clerk of said Board—duty of clerk.
 13. When action against county may be prosecuted before Justice of the Peace.
 14. Costs may be recovered as in other cases.
 15. Judgments against county how recoverable.

- ARTICLE 2. Sec. 1. Board of County Commissioners—how elected.
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 4. Proceedings in case of tie vote.
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 25. Election how conducted.
 26. Commissioners to meet on first Monday in June, 1860, to district their county.
 27. Duty of Commissioners of counties not divided into towns.
 28. Election districts—when and by whom created.
 29. Commissioners to appoint judges of election.
 30. Officers to be elected in such districts.
 31. Official oaths in such counties to be filed with Register of Deeds.
 32. All officers of such counties to be elected at annual election in April.
 33. No Commissioner to have any interest in any contract made by the Commissioners.
 34. Repeal of Public Statutes.
 35. When act to take effect.

Be it enacted by the Legislature of the State of Minnesota:

ARTICLE I.

SECTION 1. All the rights, powers, duties, privileges, and immunities of the several counties shall remain as now established, until the same shall be altered by law.

Powers &c. to remain as now established

SEC. 2. Each organized county within this State shall be a body politic and corporate, and, as such, shall be empowered to act for the following purposes, to wit:

First—To sue and be sued.

Second—To purchase and hold real and personal estate for the use of the county, and lands sold for taxes, as provided by law.

Third—To sell and convey any real and personal estate, owned by the county, and make such order respecting the same as may be deemed conducive to the interests of the inhabitants.

Fourth—To make all contracts and do aliother acts in relation to the property and concerns of the county, necessary to the exercise of its corporate and administrative powers.

Fifth—To exercise such further powers as shall be specially conferred by law.

SEC. 3. All real and personal estate heretofore conveyed, or which shall hereafter be conveyed, by any form of conveyance, to any county, or the inhabitants thereof, or to any person or persons for the use and benefits thereof, or its inhabitants, shall be deemed to be the property of such county; and all such conveyances shall have the same force and effect as if they had been made to the inhabitants of such county by their respective corporate names.

SEC. 4. The powers of the county, as a body politic and corporate, can only be exercised by the Board of Commissioners thereof, or in pursuance of a resolution by them adopted.

SEC. 5. The County Commissioners, or other public officers having the charge and management of the county lands, may, by their order of record, appoint agents to sell and convey any real estate of their county; and all deeds made in behalf of the inhabitants of the county by such agents, under their proper hands and seals, and duly acknowledged and recorded, shall be sufficient to all intents and purposes, to convey all the right, title, interest, and estate whatever, which the county may then have to the lands so conveyed.

SEC. 6. Each county organized for judicial purposes, shall provide a suitable court house, and a suitable and sufficient jail, and fire-proof offices and other necessary buildings, and keep the same in good repair.

SEC. 7. In case of the escape of any prisoner by reason of the insufficiency of the jail, whereby the Sheriff shall be made liable to any party at whose suit such person was committed, or to whose use any forfeiture was adjudged against him, the county shall reimburse all sums of money recovered of the Sheriff by such party on account of such escape.

SEC. 8. All actions, local or transitory, against any county may be commenced and prosecuted to final judgment in the District Court of the county against which the action is brought.

Powers of Counties

Conveyances of estate to counties

Commissioners to exercise powers of county

Conveyance of lands of county

County buildings

County to reimburse money collected of Sheriff

Actions against county

SEC. 9. Any action, local or transitory, in which any county shall be plaintiff, may be commenced and prosecuted to final judgment, in the county in which the defendant in such action resides. When any action shall be commenced against a county, a copy of the summons shall be left with the Clerk of the Board of County Commissioners, either during a session of the Board, or so that a session shall intervene between the day of leaving the copy of such summons, and the return day thereof; there shall always be ten days between the service and return of every such summons in all actions brought by or against any county. The inhabitants of the county so suing or being sued, may be jurors or witnesses, if otherwise competent or qualified according to law.

Action may be prosecuted in county of defendant

SEC. 10. Whenever any controversy or cause of action shall exist between any of the counties of this State, or between any county and the State, or individual or individuals, such proceedings shall be had for the purpose of trying and finally settling such controversy, and the same shall be conducted in the like manner, and the judgment or decree therein shall have the like effect as in suits or proceedings between individuals and corporations.

Actions between counties how conducted

SEC. 11. In all suits or proceedings by or against a county, the name in which the county shall sue or be sued, shall be "the Board of County Commissioners of the county of _____," (the name of the county); but this provision shall not prevent other county officers, when authorized by law, from suing in their name of office for the benefit of the county.

Name by which counties shall sue and be sued

SEC. 12. In all legal proceedings against the Board of Commissioners of any county, the process shall be served on the Clerk of the said Board, and whenever such suit or proceeding shall be commenced, it shall be the duty of the said clerk forthwith to notify the County Attorney for said county, and to lay before the Board of Commissioners at their next annual meeting all the information he may have in regard to such suit or proceedings.

Process to be served on clerk of Board of Supervisors

SEC. 13. Any action in favor of, or against a county, which, if prosecuted by or against an individual, could be prosecuted before a Justice of the Peace, may be prosecuted by or against such county in like manner before a Justice of the Peace.

Action before Justice of Peace

SEC. 14. In all suits or proceedings prosecuted by or against counties, or by or against county officers in their name of office, costs shall be recoverable as in suits between individuals.

Costs

SEC. 15. When any judgment shall be recovered against the Board of Commissioners of any county, or against any county officer, in any action prosecuted by or against him in his name of office, where the same shall be paid by the county, no execution shall be awarded or issued upon such judgment

Judgments how collected and paid

except as herein provided; such judgment, unless reversed, shall be levied and collected as other county charges, and when so collected shall be paid by the County Treasurer to the person in whose favor such judgment was rendered, upon the delivery of a proper voucher therefor; but if payment be not made within thirty days after the time the collector of taxes is required by law to make his return of county taxes, next after the rendition of such judgment, then and in that event, execution may be issued on such judgment; *Provided*, That if at the time of the rendition of such judgment, there shall be sufficient funds belonging to the county in the treasury, it shall be the duty of the Treasurer to pay the same upon application being made to him by the person in whose favor such judgment was rendered, his agent or attorney.

ARTICLE II.

BOARD OF COUNTY COMMISSIONERS.

Election of County Commissioners—term of office—when and by whom appointed

SEC. 1. Each and every county in the State shall be deemed an organized county for the purposes provided for in this Act, and in each and every county there shall be a Board of County Commissioners. In those counties in which at the last general election, there were cast eight hundred votes or over, the said Board shall consist of five members, and in all other counties, of three members; the term of office of the said Commissioners shall be one year, and until their successors shall have been elected or appointed and qualified. In each and every county which has a township organization, the said Board shall be elected at the annual election in each and every year; and in each and every county which has not a township organization, the said Board shall be appointed by the Governor of the State; and it is hereby made the duty of the Governor, immediately after the passage of this Act, to appoint a Board of Commissioners in each and every of the last described counties, who shall be qualified electors of their respective counties, and shall qualify in the same manner as that provided for, for Commissioners, elected in accordance with the provisions of this Act; and the Board of Commissioners so elected or appointed, are hereby authorized and empowered to do and perform such acts and things as are now or may hereafter be required of them.

Division of county into districts

SEC. 2. The several counties which are organized into townships, shall be divided into a number of districts equal to the number of members constituting the Board of Commissioners of each county, respectively; the said districts shall be bounded by township or ward lines, and shall be composed of contiguous territory, and shall contain as nearly as practicable, an equal amount of population; *Provided*, That for the first districting under this Act, the votes cast at the last gen-

eral election shall be taken as the indication of the population; *And Provided further*, That the Board of Commissioners may re-district their counties respectively, after each United States or State census, taking the population as shown by their said census as the basis; and the said districts shall be numbered in numerical order.

SEC. 3. In each of said districts one Commissioner shall be elected by the electors thereof, who shall, at the time of his election, be a resident of said district, and shall reside therein during his continuance in office, and the election of said Commissioner shall be conducted in all respects as that of other county officers, and the returns made and certified to in like manner to the County Auditor, who shall proceed to canvass the votes according to law, and issue certificates of election to the persons entitled to the same.

Each district entitled to one commissioner

SEC. 4. If the requisite number of County Commissioners, shall not be elected by reason of two or more persons having an equal and the highest number of votes for the said office, the Auditor shall give notice to the several persons so having the highest and an equal number of votes, to attend at the office of the Auditor, at a time to be appointed by the said Auditor, who shall then and there proceed publicly to decide by lot, which of the persons so having an equal number of votes, shall be declared duly elected, and the said Auditor shall make and deliver to the person thus declared duly elected, a certificate of his election as hereinbefore provided.

Proceedings in case of tie votes

SEC. 5. Each person elected as a Commissioner, shall, on receiving a certificate of his election, take an oath to support the Constitution of the United States, the Constitution of this State, and faithfully and impartially to discharge the duties of his office as such Commissioner, before the Clerk of the District Court of the proper county, or any other person authorized to administer an oath, which oath being certified on the back of such certificate, under the hand and seal of the person administering the same, shall be sufficient authority for such Commissioner to take his seat with, and act as a member of the Board, after the first day of January next succeeding his election; and the said certificate and qualification as aforesaid, shall be filed and remain in the office of the Clerk of said Board.

Commissioner to take oath—to be filed

SEC. 6. If any County Commissioner, after qualifying as above, shall neglect or refuse to do his duty in office as prescribed by law, the person so offending shall, on conviction thereof by indictment, before the District Court of the proper county, be fined in any sum not exceeding two hundred (200) dollars; *Provided*, That nothing herein contained shall prohibit any County Commissioner from resigning his said office, at any time during the period for which he may have been elected; said resignation to be in writing, and laid before the Board at a stated or special session thereof.

Penalty for neglect to perform duties

Commissioners
may sue and be
sued in behalf of
county

SEC. 7. The Commissioners thus elected and qualified may sue and be sued, defend and be defended, answer and be answered unto, in any court either in law or equity, and do and transact all business on behalf of their respective counties that may be assigned to them from time to time by law; and, in all cases where their respective counties may have been injured, or may hereafter be injured, in their goods, chattels, lands, tenements, rights, credits, effects, or contracts, such Commissioners shall and may in their name of office, without setting out their individual names, bring any suit or suits, action or actions, either in law or equity, which may be best calculated to obtain redress for an injury, in the same way and manner that private individuals might or could do, and may, in like manner, by and under their name of office, be sued by any person or persons having any manner of claims against such county.

Extra sessions

SEC. 8. The said Board of Commissioners are hereby authorized to hold extra sessions, in case they may think the business of the county requires the same; and ten days' notice from a majority of the Commissioners to the clerk of their Board shall be considered sufficient authority for said clerk to call an extra session, by notifying the remainder of said Board; *Provided*, That no such extra session shall exceed three days.

Per diem and mileage

SEC. 9. The Commissioners shall each receive one dollar and fifty cents (\$1.50) per day for each and every day they may necessarily be employed in transacting the county's business, and six (6) cents per mile for every mile traveled, in going to and returning from the meeting of the Board, or in the discharge of any official duty, to be computed by the most usually traveled route.

Quorum

SEC. 10. A majority of the Board of Commissioners shall be a quorum; *Provided*, That it shall require the vote of a majority of the whole Board to do any business.

When Commissioners shall meet

SEC. 11. The Board of Commissioners shall meet at the county seat of their respective counties for the purpose of transacting such business as may devolve upon or be brought before them, on the first Tuesday of January and September in each and every year, but no session shall continue longer than six days; *Provided*, That no Board of Commissioners shall demand or receive pay for more than fifteen days' service in any one year, for attendance at the regular or special sessions.

County Auditor to be clerk of Commissioners

SEC. 12. The County Auditor of each organized county shall be clerk of the Board of County Commissioners, and shall attend the meetings of the Board, and shall keep a record of the proceedings, and shall do such other business as he shall be required by law.

Vacancy how filled

SEC. 13. Whenever there shall be a vacancy in the office of County Commissioner, from death, resignation, or any

other cause than the expiration of the term for which he was elected, and the interests of the county shall require such vacancy to be filled before the next annual election, the Probate Judge, Auditor, and Register of Deeds of such county, or a majority of them, shall meet at the seat of a Justice of said county, and appoint one or more Commissioners as the case may be, who shall continue in office until the next annual election, and until the Commissioner or Commissioners then elected shall be qualified, and no longer; and the absence of any Commissioner from the county for six months in succession, shall be deemed a resignation of office.

SEC. 14. The Commissioners of each county respectively, shall have and use a common seal for the purpose of sealing their proceedings, and the seal of the County Auditor shall be such seal; and copies of the same, when signed and sealed by said Commissioners, and attested by their clerk, shall be good evidence of such proceedings in the trial of any cause in any county of this State.

Seal of Commissioners

SEC. 15. The Commissioners aforesaid, at their annual session in January, or at their first session in each and every year, shall elect one of their number to preside at the meetings of the Board, and he shall sign all documents requiring the signature of the Board, and the signature of such person, as Chairman of the Board of Commissioners, attested by the Auditor, shall be as legal and binding as if the entire Board had affixed their names; *Provided*, That in case said chairman so elected, shall be absent at any meeting of the Board, all documents requiring the signature of the Board shall be signed by all the members present.

Chairman to be elected

SEC. 16. The Board of Commissioners, at their annual meeting in January, shall elect from the qualified electors of the several election districts of their respective counties, or of the counties attached thereto for judicial purposes, and make out a list of fifty persons, properly qualified, to serve as grand jurors, and another list of seventy-two persons, properly qualified, to serve as petit jurors, which lists shall be certified and signed by the chairman of the Board, and attested by the clerk of the Board, and shall be forthwith delivered to the Clerk of the District Court; *Provided*, That if in any of the counties the County Commissioners shall not be able to select the number required by this Section for grand and petit jurors, they shall be authorized to select a less number, and the highest number possible.

Grand and petit jurors

SEC. 17. If for any cause such list shall not be made and delivered as aforesaid, by the Board of County Commissioners at their annual meeting in January, it shall be their duty to make out and deliver the same as aforesaid, at any regular or special session thereafter.

List may be made at special session

SEC. 18. In preparing such list the Board of County Commissioners shall select such persons as they know, or

Persons selected.

who are known to have good reason to believe, are possessed of the qualifications by law required of persons to serve as jurors.

Sec. 19. It shall be the duty of the Board of Commissioners to provide offices for the Sheriff, the Register of Deeds, and the Clerk of the District Court, and also to provide all books and stationery necessary for the use of the Board, the office of Register of Deeds, and County Surveyor, and all books and stationery necessary for the use of the Clerk of the District Court, Probate Court, and County Treasurer, and also provide convenient desks for the preservation and security of the books and other documents in the several offices; *Provided*, That said Commissioners shall not appropriate for such purposes in any one year more than one hundred (100) dollars to any one office for the purposes above mentioned.

Sec. 20. It shall be the duty of the Board of County Commissioners, whenever any Register of Deeds of their proper county, on presentment by the grand jury, shall be found guilty of misconduct in discharging his official duties, to remove him from office; and in case the office of Register of Deeds shall become vacant by death, resignation or otherwise, the said Board shall meet forthwith, at the place where their next regular meeting would be held, and appoint some suitable person to perform the duties of the said office until the next annual election, or until his successor is duly elected and qualified.

Sec. 21. The Board of Commissioners at their annual meeting in January, shall make a full and accurate statement of the receipts and expenditures of the preceding year, which statement shall contain a full and impartial description of each item, for whom, and on what account received, to whom paid, and on what account expended, together with an accurate statement of the finances of the county at the end of the fiscal year, including all debts and liabilities of every description, and the assets and the other means to discharge the same, and have the same posted up at the court house door, and at two other public places in their respective counties, and published in some newspaper in their county, if there be one, for three successive weeks.

Sec. 22. The several Boards of County Commissioners are authorized to fix the amount of county tax to be assessed, and cause the same to be collected, but no tax shall be assessed, nor any debt created by said Board for the erection of court houses, jails, or other county buildings, without being first authorized by a vote of the electors of the county; *Provided*, That the County Commissioners shall not be authorized to expend an amount of money exceeding one thousand (1000) dollars for any extraordinary purpose, unless the same has been submitted to the people, and by them approved; *Provided, however*. That the Board of County Commissioners shall not in any one year levy for county purposes a tax to

exceed three (3) mills on the dollar of the taxable property in the county, unless first authorized so to do by a vote of the people of the county; *And further Provided*, That no more debt shall be created, or bond or other evidence of debt issued, in any one year to a greater amount than one-half of the tax for that year levied, and such bond or other evidence of debt shall be made payable on or before the expiration of the fiscal year in which it is issued; *And Provided further*, That on and after the first day of May next, no orders or warrants shall be drawn on any County Treasurer to a greater amount than one-half of the tax levied for the year in such county, until there is money in the treasury to pay the same, and the County Treasurer shall notify the Board of County Commissioners whenever the amount of orders issued in any year, and remaining unpaid, shall amount to one-half the tax levied for that year, and thereafter no orders shall be issued until the Treasurer shall notify the Board that there is money in the treasury to meet the same; nothing herein contained shall be construed so as to prohibit the issuing of bonds by any county for the purpose of paying debts and liabilities already existing, or to take up bonds or orders already issued.

Sec. 23. The Board of Commissioners shall have full power to examine and settle all accounts of the receipts and expenditures of the county, and shall have the care of the county property and the management of the county funds and business, except in cases otherwise provided for, but shall exercise no other powers than such as are given by law.

Powers of Commissioners

Such Board shall, in addition to the powers above enumerated, have power to set off, organize, and vacate towns, and change the boundaries thereof in their respective counties, to designate the time and place of holding the first election therein, and make all necessary orders for the disposition and preservation of the records of any town which may be vacated by said Board; *Provided*, That no town shall be vacated, nor any town with an area of thirty-six sections or less shall be divided or have any part stricken therefrom without first submitting the question to a vote of the electors of the town.

Sec. 24. There shall be elected on the first Tuesday of April next, at the regular township election five or three, as the case may be, County Commissioners, in each organized county in this State, who shall qualify according to the provisions of this Act; and the said Commissioners so qualified shall hold their respective offices until their successors shall be elected and qualified, and until said Commissioners are so qualified, the County Supervisors shall act as the County Board.

Election of Commissioners

Sec. 25. The said election shall be conducted in all respects as for other county officers, at the regular annual election, and the returns made by the Auditor in like manner, who shall canvass the votes according to law, and forthwith issue cer-

Manner of conducting election

ificates of election to the persons entitled to the same.

Commissioners to district county SEC. 26. The said Commissioners shall meet at their county seat on the first Monday of June, in the year eighteen hundred and sixty, and proceed to lay off their respective counties into commissioner districts, in conformity to the provisions of this Act, and the clerk of the Board shall make a complete record of their proceedings.

Commissioners of counties not divided into towns to divide them into road and assessment districts SEC. 27. The Board of Commissioners of any county, not divided into towns, shall at their stated meeting in said county in each year, divide their county into road and assessment districts, and shall appoint a person of suitable qualifications as Assessor for each district, and one as overseer of roads in each road district, who shall reside within the limits thereof, and shall respectively possess the powers and perform the duties of a town assessor and a town overseer of roads, and shall each hold his office for the term of one year.

Election districts when established SEC. 28. The Commissioners of such county shall at their stated meetings in January and September, upon the petition of not less than ten legal voters, not residing within ten miles of any established election district, create and establish within said county an election district, at such point as will be most convenient for the persons so petitioning; but no place for holding elections shall be located in said election district within ten miles of any other place of holding elections previously established, nor shall the Commissioners create any election district, except at the time of their stated meetings, and then only in compliance with the request of ten or more legal voters residing not less than ten miles from any established election district.

Commissioners to appoint judges of election SEC. 29. The Board of Commissioners of such county at their session last before an election, shall appoint judges of election for each election district, and they shall thereupon cause notice to be posted in at least three of the most public places in such county, containing a complete list of all such election districts, with the names of the several judges of election in each election district.

Election of Justices and Constables SEC. 30. There shall be elected in each of such election districts, at the general State election, two Justices of the Peace and two Constables, who shall hold their respective offices for the term of two years, and until their successors shall be elected and qualified, and shall take the oath of office and execute the bond required by law, such bond to be approved by the chairman of the County Board; and any vacancies that may occur in either of said offices, shall be filled by appointment of the County Board.

Papers and oaths to be filed with Register SEC. 31. The official oaths and other papers required by law to be filed in the office of Town Clerk, shall in all counties not divided into towns, be filed with the Register of Deeds for such county.

SEC. 32. And in all such counties, for the purpose of

facilitating such organization as herein provided, all officers necessary to the organization of such counties, shall be chosen at the annual election in April next, and all officers so chosen shall hold their offices until their successors are elected and qualified, according to the requirements of law.

Officers chosen at annual election

SEC. 33. It shall not be lawful for any Commissioner either directly or indirectly, to take or receive any contract, or to have any interest in any contract which may be entered into by the said Board.

Commissioner to have no interest in any contract

SEC. 34. Chapter seven (7) of the Revised Statutes, the same being Section two hundred and fifty-one (251) to two hundred and sixty-three (263) inclusive, of Chapter one (1) of the Public Statutes of Minnesota, and all of Article one (1) of Chapter eight (8) of the Revised Statutes, and all Acts and parts of Acts, inconsistent with this Act, be and the same are hereby repealed, but such repeal shall not effect the validity of any tax levied by authority of the law as repealed, nor in any manner invalidate any tax title arising therefrom.

Repeal of Public Statutes

SEC. 35. This Act shall take effect and be in force from and after the first day of April next.

AMOS COGGSWELL,
Speaker of the House of Representatives.
IGNATIUS DONNELLY,
President of the Senate.

Approved February twenty-eighth, one thousand eight hundred and sixty.

SECRETARY'S OFFICE, MINNESOTA, }
February 28th, 1860.

ALEX. RAMSEY.

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

J. H. BAKER, Secretary of State.

CHAPTER XVI.

An Act to amend an act entitled "An Act to Organize and Discipline the Militia and Volunteer Militia," passed August 12th, 1858.

SECTION 1. Repeal of Section thirty-seven and substitute.

2. Amendment of Section seventeen, relative to uniforms.