

James C. Child
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THE

PUBLIC STATUTES

OF THE

STATE OF MINNESOTA.

(1849—1858.)

COMPILED BY
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shall be returned to the judge of probate of the county in which such parties reside.

(73.) SEC. IV. Upon the return of said notice to the said judge of probate, and on the day and at the place therein named, the said judge of probate of the county shall hear and determine such contest, and make all necessary orders for the trial of the cause and carrying his judgment into effect. Judge of probate, how to proceed.

(74.) SEC. V. Each party shall be entitled to subpoenas and subpoenas *duces tecum*, as in ordinary cases at law; and the court shall hear and determine (without the intervention of jury) the same in such manner as shall carry into effect the expressed will of a majority of the legal voters as indicated by their votes for such office, not regarding technicalities or errors in spelling the name of any candidate for such office. And the clerk of said court, or any judge of probate, shall issue a certificate to the person declared to be duly elected by said court, which shall be conclusive evidence of the right of said person to hold said office: *provided*, that the judgment, or decision of the district court in term time, or the decision of a judge thereof in vacation, as the case may be, may be removed to the supreme court by a writ of error, or in such other manner as is provided for removing causes from the district to the supreme court, and: *provided further*, that appeals may be taken from the decision of a judge of probate to the district court as in probate cases; in all which cases the party removing any such judgment or decision by writ of error or appeal, shall file in the proper court a bond to the opposite party in such sum, and with such sureties, as shall be prescribed by a judge thereof, conditioned for the payment of all costs that may be properly taxed against him. Each party entitled to subpoenas, &c.
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COUNTY COMMISSIONERS. (a)

An Act prescribing the Powers and defining the Duties of County Commissioners.

✓ [Article 1, Chapter 8, Revised Statutes.]

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SEC. I. TO IV. INCLUSIVE. [Superseded by the township act of 1858.]

Penalty for neglect of duty.

(1.) SEC. V. 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 a sum not exceeding two hundred 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 of duty.

(2.) SEC. VI. The commissioners thus elected and qualified may sue and be sued, plead and be impleaded, 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 any such injury, in the same way and manner that private individuals might or could do, and may, in like way and manner, by and under their name of office, be sued by any person or persons having any manner of claims against such county.

General powers and duties of county commissioners.

(3.) SEC. VII. The said board of commissioners are hereby authorized to hold extra sessions, in case they may think the business of their county requires the same; and ten days notice from any two of the commissioners to the third, shall be considered a sufficient call for said extra sessions: *provided*, that no such extra session shall exceed three days.

Commissioners may hold extra sessions, not exceeding three days.

SEC. VIII. TO XI. INCLUSIVE. [Superseded by township act of 1858.]

(4.) SEC. XII. The commissioners of each county, respectively, shall have and use a common seal for the purpose of sealing their proceedings, and copies of the same, when signed and sealed by the said commissioners, and attested by their clerks, shall be good evidence of such proceedings in the trial of any cause in any court in this territory.

Commissioners to use an official seal.

(5.) SEC. XIII. [(b) *As amended on page 31 of amendments to revised statutes, passed March 6, 1852.*] The several boards of county commissioners are authorized and required,

County commissioners, general duties of.

1. To provide for the erecting and repairing of court houses, jails, and other necessary buildings for the use of the county.

2. To lay out, discontinue, or alter county roads and highways within their respective counties, and to do all other necessary acts relating thereto.

(a) All laws applicable to the board of county commissioners, are made to apply to the county supervisors, by section 10, of article 24, of the township act. The compilers, therefore, retain all sections that are not clearly superseded by that Act.

(b) Section 4, of article 15, of the township act of 1858, treats of the subject provided for in this section, but does not wholly supersede it. They should be read together.

3. To license ferries and fix the rates of ferriage, to grant grocery and other licenses authorized by law to be by them granted.

4. To fix the amount of taxes to be assessed according to the provisions of the law, and cause the same to be levied and collected.

5. To examine and settle all accounts of the receipts and expenditures of the county.

6. To have the care of the county property, and the management of the county funds and business, except in cases otherwise provided for, and shall have no other powers, except such as are or may be given by law.

To elect a chairman.

Chairman to sign all documents.

(6.) SEC. XIV. The commissioners aforesaid, at their annual session in January, in each and every year, shall elect one of their members 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, shall be as legal and binding as if the entire board had affixed their names: *provided*, that in case the 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 both members present.

At the annual session in January to select grand and petit jurors.

Proviso.

(7.) SEC. XV. The board of commissioners, at their annual meeting in January, shall select from the poll lists of the different precincts of their respective counties, or of the counties attached thereto, for judicial purposes, last returned to the register of deeds office, 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 list shall be certified and signed by the chairman of the board, and attested by the register of deeds; 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 possible.

If jury list not made at January session, may be made at any session thereafter.

Duty of commissioner in preparing such list.

(8.) SEC. XVI. 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.

(9.) SEC. XVII. In preparing such lists, the board of county commissioners shall select such persons only as they know, or have good reason to believe are possessed of the qualifications by law required of persons to serve as jurors.

SEC. XVIII. [*Superseded by township act of 1858.*]

At January session the board to make statement of the finances of the county.

(10.) SEC. XIX. At said session in January the commissioners shall make a fair 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, and to whom and on what account expended, together with an accurate statement of the actual condition 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 other means to discharge the same, and have the same set 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.

Commissioners to provide offices for county officers, and books and stationery.

(11.) SEC. XX. It shall be the duty of the board of commissioners to provide offices for the sheriff, the register of deeds, and clerk of the district court, and also 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, the 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.

(12.) SEC. XXI. It shall be the duty of the board of 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 be duly elected and qualified.

Commissioners to remove register of deeds in certain case.

Commissioners may fill vacancy in office of register of deeds.

SEC. XXII. TO XXIV. INCLUSIVE. [*Superseded by township act of 1858.*]

(13.) SEC. XXV. The board of commissioners, at their session in July, in each year, shall receive and inspect the assessment roll returned by the assessors, and if it be found correct, it shall be accepted by the board, in writing, signed by the chairman and attested by the clerk, and cause the same to be filed in the office of register of deeds, where it shall remain as a matter of record, and shall be a guide for future assessors so far as the same shall remain correct.

To receive and inspect assessment roll, and correct the same.

(14.) SEC. XXVI. The board of commissioners, at their session in July of each year, shall determine the rates of taxation upon the several subjects allowed to be taxed for county revenue, and enter such determination upon record, and cause their clerk to calculate and carry out the amount of taxes opposite the specified property, a transcript of the amount of which to be furnished the treasurer, and one copy, with a precept, to be delivered to the collector.

Commissioners to determine the rates of taxation.

(15.) SEC. XXVII. The board of commissioners of the several counties of this territory are vested with the entire superintendence of the poor in their respective counties.

Board of commissioners to be vested with superintendence of the poor of the county.

(16.) SEC. XXVIII. For the purpose of more effectually discharging the duties imposed by the preceding section, the said board of commissioners in each county may appoint one or more overseers of the poor in their county, whose duty it shall be to have the care of the poor in their respective counties, under the control and superintendence of the board of commissioners.

Commissioners may appoint overseers of the poor.

An Act to amend the Revised Statutes.

[Passed March 6, 1852.]

amended 1862 Chap 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100

(17.) SEC. XXIX. When the claim of any person against a county shall be disallowed in whole or in part by the board of county commissioners, such person may appeal from the decision of such board to the judge of the district court for the same county, by causing a written notice of such appeal to be served on the clerk of such board, within thirty days after the decision appealed from was made, and executing a bond to such county with sufficient sureties, conditioned for the faithful prosecution of such appeal, and the payment of all costs that shall be adjudged against the appellant by the said judge: *provided*, that if the clerk of the said board should wish to appeal from the decision of the said board, the notice of such appeal may be served on, and the bond approved by the chairman of the board of commissioners of the county.

Who may appeal from decision of board of commissioners.

Provido.

(18.) SEC. XXX. Upon such appeal being taken, the same may be heard before the judge of the district court, either in vacation or at term, by giving six days' notice to the district attorney of the time and place of

Appeal as above, where heard.

hearing; and upon such hearing the judge shall hear the proof of the parties and render judgment according to the right of the case, with costs the same as in civil actions.

REGISTERS OF DEEDS.

An Act defining the Duties of Registers of Deeds.

[Article 2, Chapter 8, Revised Statutes.]

Register of deeds to be elected; term of service.

(19.) SEC. I. At the first general election in each and every county (hereafter) organized for county purposes, and every two years thereafter, there shall be elected a register of deeds, who shall also be clerk of the board of commissioners (a) in each county, and shall continue in office for the period of two years, and until his successor is duly elected and qualified.

Bond and oath of office to be filed.

(20.) SEC. II. Every register of deeds, before he enters upon the duties of his office, shall take and subscribe an oath before the clerk of the district court, or judge of probate, of his proper county, to support the constitution of the United States and the provisions of the act of congress organizing the territory of Minnesota, and faithfully and impartially to perform the duties of his office, as prescribed by law, to the best of his abilities; which said oath shall be endorsed on the certificate of his election or appointment, recorded in a book kept for the purpose in his office, and filed in the office of the clerk of the district court of the county, or if there is no such officer, with the clerk of the district court of the county to which his county may be attached for judicial purposes. He shall also give a bond, with good and sufficient securities, in the penal sum of one thousand dollars, to be approved by the board of commissioners of his proper county, conditioned that he will faithfully and impartially fulfill the duties of his office.

To deliver over books and papers to his successor.

(21.) SEC. III. It shall be the duty of every register of deeds, at the expiration of the term for which he was elected, or appointed, on application by his successor, duly elected or appointed, and qualified as aforesaid, to deliver over promptly, all books, records, papers, and other property pertaining to his office; and if any person, on such application, shall refuse to surrender up all books, records, and other property and papers belonging to said office, he shall forfeit and pay to the use of the proper county, fifty dollars for each and every day he shall so refuse, to be recovered before any court in the territory having competent jurisdiction, for the recovery of which fine, his official bond may be put in suit.

(22.) SEC. IV. [As amended by laws of 1857, regular session, page 8.] Every register of deeds shall keep two books, to be denominated respectively the grantor's and the grantee's reception book, each page of which shall be divided into seven columns in the following form, viz:

Form of books.

Date of Reception, year, day, hour and minute.	Grantor.	Grantee.	Where situated.	To whom delivered after record.	Fees received.	Book and page where recorded and kind of instrument.
Date of Reception, year, day, hour and minute.	Grantee.	Grantor.	Where situated.	To whom delivered after record.	Fees received.	Book and page where recorded and kind of instrument.

The register shall enter in each of said books, in the order and manner of all deeds and other instruments left for record, and all copies left as cautions or notices of liens, as soon as the same shall be received, and

(a) See article 15 of the township act of 1858, which provides for the election of a clerk of the board of supervisors, to be styled "county auditor."

when mortgages are discharged in whole or in part, by an acknowledgment of satisfaction written on the margin of the page where the mortgage is recorded, the register shall note the fact by writing the word "satisfied," or "satisfied in part," as the case may be, across the entry in the reception books, when the instrument satisfied is entered, and the other particulars in their appropriate columns. The pages of each of the said reception books shall be lettered in alphabetical order, a convenient number of consecutive pages being allotted to each letter of the alphabet, and each and every entry made in the said books as aforesaid shall be made in the grantor's reception book under the letter which shall be the initial letter of the grantor's surname; and in the grantee's reception book, under the letter which shall be the initial letter of the grantee's surname; and all the entries under each letter shall appear upon said books consecutively, and in the order as to time in which the instruments were received. The said register shall also certify upon each instrument recorded by him, the time when it was recorded, and the book and page in which it was recorded, and every instrument shall be considered as recorded at the time so noted. It shall be the duty of said register to exhibit free of charge, during the hours when his office is, or is required by law to be open, any of the records of his office or in official custody, to the inspection of any person demanding to see the same. But no register of deeds shall be bound to record any deed or mortgage or other instrument unless the fees therefor be tendered him in advance.

(23.) SEC. V. [*As amended by laws of 1854, page 61.* ^{21 3. 4}] The register of deeds of the several counties of this territory, shall keep suitable books, and shall record at large and in full, word for word, any and all instruments left with him for record, keeping separate books of deeds, mortgages, and other instruments. He shall also keep separate books of an alphabetical index, wherein he shall record in alphabetical order, under the proper letter of the alphabet, the name of each grantor and grantee in any deed, mortgage, or other instrument left with him for record.

Register of deeds to keep suitable books.

(24.) SEC. VI. The register of deeds in the several counties of this territory, are hereby authorized to appoint deputy registers, who shall be appointed in writing, and shall, before entering upon the duties of their office, take and subscribe an oath faithfully to perform the duties of their office, which oath shall be endorsed on the appointment, and recorded in the office of the register of deeds. The registers of deeds shall be responsible for the acts of their deputies, and may revoke their appointment at pleasure.

Register may appoint deputy in writing.

(25.) SEC. VII. The registers of deeds shall attend the meeting of the board of commissioners of their respective counties, and do and perform all the duties imposed by law, and the clerk of said board shall keep fair books, wherein shall be entered the minutes of the proceedings of the board and all accounts of the county, shall attest all orders issued by the board for the payment of money, and enter the same in numerical order in a book to be kept for that purpose, and shall copy into books, the reports of the treasurer of the receipts and disbursements of their respective counties, and whenever the duplicate shall be put into the hands of the collector, it shall be the duty of said register of deeds to send a statement of the sum wherewith such collector stands charged, to the county treasurer; and the said register of deeds, shall receive such compensation not exceeding three dollars per day, during the sittings of said board, as may be by said board deemed reasonable; and also such compensation as the board may deem proper, for extra services authorized by law, or directed by the said board, which shall be audited by the board at each regular

Register to attend meetings of board of county commissioners as clerk of the board.

Duties as clerk of the board.

session thereof; the clerk filing a bill of items which shall be regulated by the act concerning costs and fees.

To make out notices of election.

(26.) SEC. VIII. The register of deeds shall, previous to any election, make out and deliver to the proper officer, notices of such election pursuant to the statute regulating elections.

Register of deeds to canvass votes.

(27.) SEC. IX. It shall be the duty of the register of deeds of each county,

To make out and deliver certificates of election.

1. To canvass all votes given in his county at any election, and make out abstracts thereof.

2. To make and deliver to the person or persons elected, certificates of such election.

3. To notify persons having an equal and the highest number of votes, to attend at his office, and decide by lot which person shall be elected.

4. To perform and discharge all duties in relation to the matters contained in this section, according to the statute regulating elections.

Register to make out statement of amount of taxes for treasurer; also, duplicate of tax roll for collector.

(28.) SEC. X. It shall be the duty of the register of deeds, within fifteen days of the acceptance and filing by the board of commissioners of the assessment roll of the county assessor, to make out a certified statement of the amount of taxes assessed, and deliver the same to the county treasurer, and also to make a duplicate or transcript of the roll or rolls aforesaid, and deliver the same, together with a precept in the name of the United States, under his hand and the seal of the board of commissioners, directed to the collector of his county, commanding him to collect the taxes charged in such transcript, by demanding payment of the persons charged therein, and making sale of the goods and chattels of the persons mentioned in said transcript, if necessary, and that he pay over the moneys collected by him by virtue of said precept as therein directed, and return such precept, together with the transcript of the roll aforesaid, and accounts of his acts thereon to the board of county commissioners, on or before the first Monday in January next ensuing the date thereof.

An Act to amend the Revised Statutes.

[Passed March 1, 1856.] C. 11

Register to give abstracts of titles.

(29.) SEC. I. *Be it enacted by the legislative assembly of the territory of Minnesota:* It shall be the duty of every register of deeds in this territory, to give a perfect and full abstract of title of real estate property recorded in their respective county, to any person calling for, with his certificate under seal, stating the incumbrances, if any, by mortgages, trust, deed, or county tax. And the said register shall receive fees of fifty cents for his certificate and seal, and twenty-five cents for each and every transfer.

Not to record instruments, when.

(30.) SEC. II. No register of deeds shall record any conveyance or other instrument, unless the same is properly and legally proved and acknowledged, and a willful violation of the provisions of this section, shall be a misdemeanor in office and punished accordingly.

An Act concerning Registers of Deeds.

[Passed March 1, 1856.] C. 44

Empowered to administer oaths, &c.

(31.) SEC. I. *Be it enacted by the legislative assembly of the territory of Minnesota:* That the registers of deeds of the organized counties throughout the territory, be and the same are hereby authorized and empowered to administer oaths, and take acknowledgments of deeds, conveyances, and other instruments of writing.

Seal.

(32.) SEC. II. Said registers of deeds shall select and keep in their

office a seal, to be affixed by them to all documents which may require their official signature, said seal to be the property of the county and the expense of procuring the same to be defrayed by the various counties respectively.

(33.) SEC. III. The authority granted in section I of this act shall only be exercised by the register in person, and no deputy shall have the power to exercise any of the privileges granted by said section. Deputies.

(34.) SEC. IV. The fees shall correspond with those received by other officers for similar services. Fees.

An Act to amend Section 4, of Article 2, of Chapter 8, of the Revised Statutes.

[Passed March 7, 1857.]

SEC. I. (a)

(35.) SEC. II. Each and every register of deeds is hereby required and empowered forthwith to procure, open and keep the reception books provided for in the above section, (b) at the expense of his proper county. Register to procure books.

(36.) SEC. III. This act shall take effect from and after its passage. When act shall take effect.

COUNTY TREASURERS. (c)

An Act defining the Duties of the County Treasurer.

[Article 3, Chapter 8, Revised Statutes.]

SEC. I. II. [Superseded by township act of 1858.]

(37.) SEC. III. In case of a vacancy in said office of county treasurer, by death, resignation, or otherwise, it shall be the duty of the board of county commissioners to appoint some suitable person, a resident of the county, to be treasurer, who shall hold his office until the next succeeding first day of January, and shall qualify according to the provisions of this chapter: *provided*, that no person who holds the office of district attorney, sheriff, register of deeds, or county commissioner, shall be eligible to said office. In case of vacancy, commissioners to appoint treasurer. Proviso.

(38.) SEC. IV. [As amended on page 31 of the amendments to the revised statutes, passed March 6, 1852.] 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. Duties of county treasurer.

(39.) SEC. V. The treasurer shall keep a just and true account of all moneys received and disbursed, and hold the same at all times ready for the inspection of said board, and shall, at every term of said board, furnish them with a statement thereof, balanced to the first day of said term, showing all the moneys received and disbursed by him since his last settlement, and the balance remaining in his hands, together with the arrearages of taxes in the hands of the collector; and he shall, at the session of the To keep account of receipts and to furnish accounts when required.

(a) See section (22) of this chapter, where this section is inserted in its appropriate place.

(b) Refers to section (22) of this chapter.

(c) Read with the sections of the revised statutes here published, article 16 of the township act of 1858, which treats of county treasurers.

board of commissioners in January in each year, settle his accounts with the said board, and produce his vouchers, which, being allowed, shall be canceled by them by writing the word cancel on the face of such order, which shall be retained and filed by the clerk of said board.

To collect from delinquent collectors amount not accounted for.

(40.) SEC. VI. It shall moreover be the duty of the treasurer, as soon as he shall have received, from the clerk of the board of commissioners, a statement of the amount of taxes put in the hands of the sheriff or collector of his county, or of his predecessors, and which shall not have been accounted for, forthwith to proceed to collect from such delinquent, his securities, heirs, executors, or administrators, the sum or sums in arrears, and due from him or them, to the county; and in like manner, when such treasurer shall be furnished by the clerk, with a statement of fines or forfeitures received by any officer for the use of the county, he shall forthwith proceed to collect the same according to law, and place the same, when collected, to the credit of the county.

Treasurer may prosecute suits in certain cases.

(41.) SEC. VII. The treasurers of the several counties may, in their official capacity, prosecute, to final judgment and execution, any suits upon bonds, notes, and other securities given to them or their predecessors in office, and any suits commenced by their predecessors in office, and pending at their removal therefrom.

Order of preference in paying county orders.

(42.) SEC. VIII. County orders, properly attested, shall be entitled to a preference as to payment, according to the time in which they may be presented; and upon the receipt of moneys into the treasury, it shall be the duty of the treasurer to appropriate and set apart the sum for the discharge of such county orders so presented: *provided, however*, that the treasurer and county collector are hereby required to receive county orders in the payment of county tax, without regard to the priority of the numbers of any such order or orders.

Money advanced for the use of the county and judgments to be first paid.

(43.) SEC. IX. When money has been advanced by any clerk or other county officer, for the use and benefit of his county, pursuant to the requisitions of law, or when there is any judgment or judgments against the county, the board of commissioners shall cause the same to be first paid by the county treasurer.

Treasurer not to purchase or receive county orders for a less amount than their face.

(44.) SEC. X. No treasurer, or other county officer, or other person doing county business, shall, either directly or indirectly, purchase or receive in payment, exchange, or in any way whatever, any county order, or any claim against his county, during the period for which he may be elected, for a less amount than that expressed on the face of such order or demand against the county; and any person offending against the provisions of this section, on conviction thereof, upon indictment, shall be fined for every such offense, in any sum not exceeding two hundred dollars.

Penalty.

To receive money paid for licenses, &c.

(45.) SEC. XI. The county treasurer shall receive all taxes for licenses or otherwise, belonging to the county, and shall have, for his services, two per centum for all moneys received and paid out for the county, excepting money arising from the sale of lots at a county seat, in which case he shall receive no more than one per cent. for both receiving and paying out the same.

Compensation for.

County treasurer where to hold his office.

(46.) SEC. XII. The county treasurer shall hold his office at the county seat, and may appoint, in writing, a deputy, for whose acts he shall be responsible, and who shall take an oath for the faithful performance of the duties of his office, which oath shall be subscribed and certified on the back of the appointment, and filed and recorded in the office of the register of deeds, and the said deputy may be removed at the pleasure of the treasurer, and such removal noted on the record of his appointment in the office of register of deeds.

May appoint deputy.

SHERIFFS.

An Act defining the Duties of Sheriffs.
 ✓ [Article 4, Chapter 8, Revised Statutes.]

(47.) SEC. I. There shall be elected, by the qualified voters in each and every county hereafter organized, a sheriff, who shall hold his office for two years, and until his successor shall be elected and qualified. Sheriff to be elected for two years.

(48.) SEC. II. The sheriff of each county shall also be collector of taxes in his county, and perform, all and singular, the duties required by law to be performed by sheriff and tax collector respectively. Sheriff to be collector of taxes.

(49.) SEC. III. Every person elected or appointed to the office of sheriff, shall, before he enters on the duties of said office, enter into bonds to the board of county commissioners of his county, in the penal sum of five thousand dollars, with two or more sureties to be approved by the board of commissioners, and the approval endorsed thereon, conditioned that the said sheriff shall well and faithfully, in all things, perform and execute the duties of sheriff and collector of taxes, according to law, during his continuance in office, without fraud, deceit, or oppression, which bond shall be filed in the office of register of deeds of his proper county. He shall also take an oath to support the constitution of the United States and the provisions of the act of congress organizing the territory of Minnesota, and faithfully and diligently to perform the duties of sheriff and tax collector during his continuance in office; and said oath shall be subscribed to and certified on the back of his certificate of election, and filed and recorded in the office of register of deeds of the county for which said sheriff is elected. To execute bond and take an oath of office.

(50.) SEC. IV. All persons duly elected sheriffs in this territory shall be qualified, as prescribed by law, at the regular session of the board of county commissioners in January next succeeding the day of their election. Sheriff, when qualified.

(51.) SEC. V. The sheriff of each county shall, as soon as may be after he has qualified, appoint, under his hand and seal, some proper person deputy sheriff, who is hereby empowered to do and perform all the duties devolving on the sheriff of the county; and the sheriff shall be responsible for the acts of his deputy, and may remove said deputy at pleasure; and in case of the death or removal of any deputy sheriff, the sheriff shall forthwith appoint another person to the office; but no deputy sheriff shall enter upon the duties of his office until he has taken an oath to support the constitution of the United States, and the provisions of the organic act of the territory of Minnesota, and to perform the duties of his office faithfully, impartially, and to the best of his ability, which oath shall be subscribed on the back of his appointment, and filed and recorded in the office of register of deeds of the proper county. To appoint deputy sheriff.

(52.) SEC. VI. Every sheriff shall have the custody of the jails and prisons of his county, and the prisoners in the same, and shall appoint keepers thereof, for whose conduct he shall be responsible, and whom he may remove at pleasure; and no sheriff or deputy sheriff can hold any other civil office except deputy marshal, nor be allowed to practice law in any court of which they are officers. Sheriff responsible for acts of deputy.

(53.) SEC. VII. It shall be the duty of the sheriff to keep and preserve the peace in their respective counties, for which purpose they are empowered to call to their aid such persons or power of their respective counties as they may deem necessary. They shall also pursue and apprehend all felons; they shall execute all warrants, writs, and other process Sheriff to have charge of jail and prisoners.

To preserve the peace, may call to his aid the power of the county.

from a justice of the peace or the district court, which shall be directed to them by legal authority; they shall attend at the sessions of the district court and of the board of county commissioners; they shall serve or post up all notices they may receive from the board of commissioners or from the register of deeds; they shall give notice of a special election, when notified by the register of deeds, and shall notify the board of commissioners when any vacancy happens in the office of register of deeds; shall collect the county revenue, (a) and pay over to the county treasurer all sums so collected, and take his receipt therefor, which receipt shall be a sufficient voucher for the board of commissioners to cancel the amount of such assessment roll charged in their books against said collector; and shall keep his office at the county seat, and shall generally do and perform all and singular the duties which are or hereafter may be authorized by law to be performed by sheriff or tax collector.

Duties as collector of taxes.

Vacancy in office of, how filled.

(54.) SEC. VIII. In case of the office of sheriff becoming vacant by death, resignation, or otherwise, it shall be the duty of the deputy sheriff to give notice thereof to the board of county commissioners of the proper county, who shall forthwith appoint some suitable person to be sheriff of the county during the unexpired term, or until the next general election.

Writs, sheriff to give certificate of, &c.

(55.) SEC. IX. Every sheriff to whom any writ shall be delivered in the county where it is to be executed, shall, if required by the person delivering the same, give to such person a certificate, under his hand, without charge, wherein the names of the parties and the day of delivering the writ shall be mentioned.

Proceeding when sheriff fails to pay over money collected by him.

(56.) SEC. X. If any sheriff shall fail to settle with, and pay over to the board of county commissioners according to law, any money which he may have collected or received belonging to such county, or shall neglect or refuse to pay over any money he may have collected by virtue of any execution or process, or shall willfully neglect his duties to the injury of the said board, or any person or persons, it may be lawful for the said board of commissioners, or such person or persons entitled to receive the same, or who may have been injured as aforesaid, to proceed against such sheriff in a summary way before the district court by motion, by giving such sheriff three days' notice of such application, and recover the amount due or damage done, with twenty per cent. damages thereon for such neglect, and shall have execution therefor with costs, and may proceed against such sheriff and his sureties for such delinquency upon his bond of office: *provided*, that in all such cases, if the sheriff shall satisfy or pay the amount claimed by the party prosecuting, with costs, under the direction of the court, before final judgment, or in any subsequent prosecution before inquest found, all further proceedings upon such bond or judgment shall be stayed by the court.

SEC. XI. [*Superseded by township act of 1858.*]

Not to receive more fees than are allowed by law.

(57.) SEC. XII. No sheriff or other officer, by color of their office, shall directly or indirectly ask, demand, or receive, for any services or acts by them performed in pursuance of any duty of their office, any greater or more fees than are allowed by law, on pain of forfeiting for such offense to the party aggrieved treble the sum so demanded or received, together with costs of suit.

Not to purchase property sold by him on execution.

(58.) SEC. XIII. No sheriff shall become the purchaser, nor procure any person to become the purchaser for him of any property, real or personal, by him exposed to sale, by virtue of any execution or other process;

(a) See article 20 of the township act of 1858, which provides for the collection of taxes by a collector in each town.

and all such purchases made by any sheriff, or any other person in his behalf, shall be absolutely null and void.

(59.) SEC. XIV. Every sheriff going out of office at the expiration of his term, and having any writ of *scire facias*, or fee bill, which he may have levied but not collected, or any tax list uncollected, shall be, and is hereby authorized to proceed on and collect such execution, fee bill, or tax list, in the same manner as if his office had not expired.

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 May finish certain business after expiration of his office.

(60.) SEC. XV. Sheriffs and jailors shall receive from any constable or other officer, without charge, and safely keep in prison all felons indicted or taken in the fact, who shall be taken by any constable or other officer, and not of their own authority let out of prison any person in their custody by virtue of any process, for any felony, or upon any condemnation or committal by any special order of any court or justice of the peace, upon pain of being punished by fine and imprisonment: *provided*, that if there shall be no jail for the confinement of prisoners in the county, or the jail shall be insufficient, it shall be the duty of the sheriff, with the approbation of the judge of the district court, to employ such means as may be necessary for the safe keeping of all prisoners committed to his custody.

Sheriffs and jailors to receive and keep persons charged with crime.

(61.) SEC. XVI. Each sheriff shall receive the following fees for the collection of the county taxes: four dollars for every hundred dollars by him collected, and the same proportion for less sums, to be retained by him in making payment, and credited therefor in his settlement with the board of county commissioners; three per centum commission where goods are distrained, and taxes, commission and charges paid before sale; five per centum commission on sales of distress and charges for keeping property distrained, together with the tax and charges out of the moneys received therefrom. On sales of real estate, in all cases where by law sheriffs are authorized to sell the same for taxes, three per centum on the amount for which the same is exposed to sale, and twenty-five cents for each certificate of sale under this article, which are to be added to and estimated in the sum for which any tract of land, or lot, or part thereof, shall be sold.

Fees for collecting taxes.

(62.) SEC. XVII. Any sheriff or other officer, who shall have legally arrested any person in any county in this territory, may pass across and through such parts of any other counties as shall be in the ordinary route of travel from the place where such person shall have been arrested, to the place where he is to be conveyed, according to the command of the process by virtue of which such arrests have been made.

Sheriff, &c., arresting person in one county, may pass another.

(63.) SEC. XVIII. No sheriff, deputy sheriff, or coroner, shall appear or practice as an attorney, solicitor, or counsellor, in any court, nor shall they draw or fill up any writ, pleading, or proceeding, for any party in any suit, nor shall they, with intent to be employed in the collection of any demand, or the service of any process, advise or counsel any person to commence any suit or proceeding; and either of said officers for a violation of any of the provisions of this section, shall forfeit a sum not exceeding fifty dollars.

Sheriff, deputy, or coroner not to practice as attorney or counsel.

(64.) SEC. XIX. Whenever any sheriff shall neglect to make due return of any writ, or other process, delivered to him to be executed, or shall be guilty of any misconduct in relation thereto, he shall be liable to fine or attachment, or both, at the discretion of the court; such fine, however, not to exceed two hundred dollars, and also to an action for damages to the party aggrieved.

Sheriff, when liable to fine or attachment, or action for damages.

(65.) SEC. XX. Whenever the coroner shall execute the office of sheriff, the coroner so executing such office, shall perform all the duties, and be subject to all the liabilities and penalties imposed by law upon a sheriff duly elected and qualified.

Duties and liabilities of coroner, when acting as sheriff.

DISTRICT ATTORNEYS. (a)

An Act defining the Duties of District Attorneys.

[Article 5, Chapter 8, Revised Statutes.]

Repealed 1870
District attorney to be elected, and term of service.

(66.) SEC. I. There shall be elected in each of the counties in this territory, which are or may hereafter be organized for judicial purposes, a district attorney, who shall hold his office for the term of two years, and shall, before he enters upon the duties of his office, take and subscribe an oath to support the constitution of the United States and the organic act of this territory, and to discharge the duties of the office of district attorney according to the best of his ability.

To execute bond to the board of commissioners of the county.

(67.) SEC. II. The person so elected district attorney shall also, before he enters upon the duties of his office, execute a bond to the board of commissioners of the county for which he was elected, in the penal sum of five hundred dollars, with one or more sufficient sureties, to be approved by the register of deeds of such county, the condition of which bond shall be that he will faithfully discharge the duties of the office of district attorney, and that he will pay over to the treasurer of his county, all moneys which shall come into his hands by virtue of his office, which bond, together with the oath of office, shall be deposited in the office of register of deeds of such county.

His duties.

(68.) SEC. III. It shall be the duty of the district attorneys of the several counties to appear in the district courts of their respective counties, and prosecute or defend on behalf of the county, or territory, all suits, indictments, applications or motions, civil or criminal, in which the territory or county are interested as a party.

When to give opinion to the board of commissioners and other officers.

(69.) SEC. IV. The district attorneys shall, without fee or reward, give opinions and advice to the board of commissioners, and other civil officers of their respective counties, when requested by such board or officers, upon all matters in which the county is, or may be interested, or relating to the discharge of the official duties of such board or officers, in all cases where the territory or county may have an interest.

Not to receive fee in certain cases.

(70.) SEC. V. No district attorney shall receive any fee or reward from or on behalf of any prosecutor or other individual, for services in any prosecution or business to which it shall be his duty to attend.

Court may appoint district attorney in certain cases.

(71.) SEC. VI. Whenever there shall not be a district attorney for the county, or when the district attorney be absent, at the session of the district court for the county, it shall be the duty of the court to appoint, by an order to be entered in the minutes of the court, some suitable person to perform, for the time being, the duties required by law to be performed by the district attorney; and the person so appointed shall thereupon be vested with all the powers of such district attorney for that purpose, and the person so appointed shall receive a reasonable compensation for his services, to be allowed by the board of commissioners, and paid out of the treasury of such county.

To file with the treasurer an account of moneys received by him for the county.

(72.) SEC. VII. Every district attorney in this territory, on or before the first day of January in each and every year, shall file, in the office of the county treasurer, an account in writing, verified by his affidavit, to be filed with said account, of all moneys received by him during the prece-

(a) Section 15 of the schedule of the constitution, provides for the election of prosecuting attorneys for the several judicial districts of the state. As yet no legislation has been had on the subject of their powers and duties. Whether they supersede the district attorneys, or whether the law applicable to the latter also applies to them, *query*. District attorneys are to file bonds and oaths of office with the clerk of the supreme court. See laws of 1858, page 147; also chapter 63 of this compilation.

ding year by virtue of his office for fines, recognizances, forfeitures, penalties, or costs; and he shall specify, in such account, the name of the person from whom he may have received such moneys, the particular amount paid by each person, and the cause for which each payment was made, and shall, at the same time, pay over such moneys to the county treasurer.

(73.) SEC. VIII. Whenever any district attorney shall refuse or neglect to account for and pay over the moneys received by him as required by the preceding section, it shall be the duty of the county treasurer to cause suit to be instituted upon the bond of such district attorney for the recovery of the moneys so received and unpaid by him. Penalty for neglect.

(74.) SEC. IX. Whenever required by the grand jury of his county, it shall be the duty of the district attorney to attend before them for the purpose of examining witnesses in their presence, or of giving them advice in any legal matter before them, and to issue subpoenas and other process to bring up witnesses and draw bills of indictment. To attend grand jury when required.

An Act to amend the Revised Statutes.

[Passed March 6, 1852.]

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(75.) SEC. X. Each district attorney shall receive an annual salary of not less than one hundred dollars, nor more than seven hundred dollars, payable quarterly out of the county treasury. The amount within the above limitations to be determined by the board of county commissioners, at any regular or special session. Salary.

JUDGES OF PROBATE. (a)

An Act defining the Duties of Judges of Probate.

[Article 6, Chapter 8, Revised Statutes]
See Laws 1860 Ch. 76 § 260

(76.) SEC. I. There shall be elected in each of the organized counties of this territory, a judge of probate, who shall hold his office for the term of two years, and shall, before he enters upon the duties of his office, execute a bond to the treasurer of the county in which he may have been elected, in the penal sum of one thousand dollars, with one or more sufficient sureties, to be approved by the said treasurer, conditioned for the faithful discharge of the duties required of him by law, and for the faithful application of all moneys and effects that may come into his hands in the execution of the duties of his office; and take an oath or affirmation to support the constitution of the United States, and well and faithfully to discharge the duties of his office, which bond and oath of office shall be filed in the office of the treasurer of the county. Judge of probate to be elected, to take oath of office and execute bond.

(77.) SEC. II. The judge of probate shall keep a record of all orders, decrees and other official acts made or done by him, which record shall be open to the inspection of all persons without charge; and he shall receive for his services such compensation as shall be allowed by law. To keep a record which shall be open to inspection.

(78.) SEC. III. The several judges of probate in this territory, shall have full power and authority to administer oaths in all cases where oaths are by law required to be made. May administer oaths.

(79.) SEC. IV. Whenever the term of office of any judge of probate of this territory shall expire, it shall be his duty to deliver over to his successor in office, all books and papers relating to said office of judge of probate, in his possession, and upon failure to do so within five days after To deliver books and papers to successor.

(a) Probate judges are authorized to take acknowledgments of conveyances, by laws of 1856, page 19, published in this compilation under head of "Deeds and Mortgages."

demand, by the successor of such judge of probate, he shall be liable to indictment and punishment by fine not exceeding one thousand, nor less than one hundred dollars.

An Act conferring the powers of a Court Commissioner upon Judges of Probate, and prescribing their duties and fees.

√ [Passed August 4, 1858.] C. 48

Judges of probate to act as court commissioners; their powers.

(80.) SEC. I. *Be it enacted by the legislature of the state of Minnesota:* The judge of probate in each organized county, to the capacity of whom the district judge of the county shall have certified upon due examination of said district judge, shall act as a court commissioner, and shall have and may exercise the power of a judge of the district court at chambers, and administer oaths, take the acknowledgment of deeds, and other instruments in writing, allow writs of *certiorari* and injunction and of *habeas corpus*, may order and determine upon the amount and sufficiency of bail; he may take all such testimony and depositions of witnesses to be used in cases at law as may be provided for by rule of order of the district court; he may state accounts between parties in cases referred to him by order of the district court, and tax costs, and shall be entitled to receive compensation therefor, according to the provisions following in this section. For taking bail, one dollar; deciding upon an application for a writ of *habeas corpus*, or *certiorari*, one dollar, whether such writ be allowed or not; every attendance upon the hearing of any motion for any order, which such officer is authorized to grant, one dollar; and the like fee for attendance upon any motion for any official act to be done by such officer, where no fee is specially provided for such act. Every order for a commission to examine witnesses, fifty cents; attending, settling, certifying interrogatories, to be annexed to a commission, one dollar; every order for the examination of a witness conditionally or upon any proceedings to perpetuate his testimony, fifty cents; every day's attendance on the examination of such witness, five dollars; every necessary order in the progress of a cause, except orders to stay proceedings, fifty cents; taking a bond or recognizance, when the same is required or authorized by law, one dollar; for deciding on the sufficiency of sureties, and certifying such sufficiency in cases when it shall appear, one dollar; for every precept for a jury, summons for a witness, or attachment against a witness, fifty cents; for every order, warrant, or attachment, made or issued in any special proceedings authorized by law, fifty cents; for every notice to any party, officer or person required to be given by any such officer, fifty cents; for every report and all other papers and proceedings which he may be required by law to prepare, in order to be signed by himself, in cases where no specific allowance shall have been made for such paper and proceedings, for drafting the same and copying, ten cents for each folio: hearing and deciding on the return of a writ of *habeas corpus*, three dollars; for administering oaths, the same fees as are allowed other officers for the same; for taking the acknowledgment of deeds and other instruments, the same fees as are allowed by law to notaries public and others; taking a surrender of principal in a cause, fifty cents; for a commitment of such principal, fifty cents; allowing a writ of *habeas corpus* or *certiorari*, one dollar; for perusing a bill or petition for an injunction (or *ne exeat*) and allowing or refusing writ, two dollars.

Fees to be charged.

Fees to be charged.

Record books of proceedings.

Office to be at county seat.

(81.) SEC. II. The judge of probate shall procure suitable books, at the expense of the county, and keep a record of all proceedings before him in his capacity of court commissioner.

(82.) SEC. III. The Judge of probate shall keep his office at the

county seat of his county, and the county commissioners shall provide him with a suitable and convenient office at the expense of the county.

COUNTY SURVEYORS.

An Act defining the duties of County Surveyors.

[Article 7, Chapter 8, Revised Statutes.]

(83.) SEC. I. [As amended by laws of 1853, page 22.] The qualified electors in each of the organized counties of the territory, shall, at the annual election, elect a surveyor, who shall hold his office for two years and until his successor shall be elected and qualified; and who shall reside in the county for which he shall have been elected, and shall, previous to his entering upon the duties of his office, take and subscribe an oath or affirmation faithfully to discharge the duties of the same, and shall give bond to the clerk of the board of county commissioners of the proper county, in the sum of five hundred dollars, conditioned for the faithful discharge of his duties.

Surveyors to be elected, to take an oath and give bond.

(84.) SEC. II. The said surveyor may appoint such number of deputies as he may think proper, who shall severally take an oath or affirmation of office, and for the faithful performance of whose duties he shall be responsible. The certificate of the county surveyor elected as aforesaid, or any of his deputies, shall be admitted as legal evidence in any court in this territory, but the same may be explained or rebutted by other evidence; and if said surveyor or either of his deputies, be interested in any tract of land, a survey of which becomes necessary, such survey may be executed by any competent person to be appointed by the court before which such matters shall be pending.

May appoint deputies, who shall take oath.

(85.) SEC. III. It shall be the duty of said surveyor, by himself or one of his deputies, to execute any survey which may be required by order of any court, or upon application of any individual or corporation.

Duty of surveyor.

(86.) SEC. IV. The said surveyor shall keep a correct and fair record of all surveys made by him or his deputies in a book to be provided by the county commissioners for that purpose, which he shall transmit to his successor in office; he shall also number such surveys progressively, and shall preserve a copy of the field notes and calculations of each survey, endorsing thereon its proper number, a copy of which, and also a fair and accurate plat, together with a certificate of survey, shall be furnished by said surveyor to any person requiring the same.

To keep a record and preserve field notes, &c.

(87.) SEC. V. The said surveyor and his deputies may demand and receive for their services the following fees, to wit: for the first mile actually run with a compass and chain, three dollars; for each succeeding mile thereafter, one dollar; for each mile run with a compass alone, one dollar; for every in and out lot laid out and platted in any town or addition thereto, thirty-seven and one-half cents; for a plat and certificate, except town plats, fifty cents; for recording a survey, fifty cents.

Fees of county surveyor.

(88.) SEC. VI. If the party for whom the survey is made does not furnish chainmen and markers, the county surveyor, or his deputies, may employ the necessary chainmen and markers, and shall receive one dollar and fifty cents per day for each chainman and marker so employed, and each chainman and marker so employed in any survey by any county surveyor, or his deputies, shall, before they commence the duty assigned to them, take an oath or affirmation before the said surveyor, who is hereby authorized to administer the same, faithfully and impartially to discharge the duties of chainman or marker, as the case may be.

Fees of chainman and marker, they to be sworn.

(89.) SEC. VII. In all surveys the courses shall be expressed accord-

Courses to be expressed according to the true meridian.

ing to the true meridian, and the variation of the magnetic meridian from the true meridian, shall be expressed on the plat, with the year, month and day of the same.

In case of vacancy, commissioners to appoint.

(90.) SEC. VIII. If the office of county surveyor be at any time vacant in any county, the board of county commissioners for such county, is hereby empowered to appoint and authorize some competent person to perform the duties of surveyor in such county, until a county surveyor shall be duly elected.

Term of office.

(91.) SEC. IX. Each surveyor elected as aforesaid, shall hold his office for the term of two years, and until his successor in office shall be elected and qualified.

Sections and subdivisions, how to be divided.

(92.) SEC. X. Whenever a surveyor is required to make a subdivision of a section, as established by the United States survey, he shall proceed as follows, except when the section is fractional: commencing at either quarter section corner of the section, he shall run north or south, east or west, across said section, and establish a common centre therefor, at which a post shall be firmly fixed and driven into the ground; and if practicable, two bearing trees shall be marked with a suitable instrument, one quarter S, and their course and distance from the said post noted in the plat and field notes; any less subdivision than a quarter section shall be made by proceeding in the same manner, except in fractional sections, the corners of which shall be established and noted as before provided for, the surveyor denoting the quantity upon the bearing trees as one-eighth or one-sixteenth of a section, as the case may be.

An Act "To regulate the compensation of County Surveyors in the Territory of Minnesota."

Handwritten notes: "This act is repealed. [Passed May 23, 1857.] c. 21 30"

Compensation of Surveyors.

(93.) SEC. I. Be it enacted by the legislative assembly of the territory of Minnesota: That from and after the passage of this act, all county surveyors shall, while engaged in the surveying, laying out, altering or examining county or territorial roads, be entitled to receive for their services the sum of four dollars per day during all the time that they may be so engaged.

Acts repealed.

(94.) SEC. II. All acts or parts of acts inconsistent with the provisions of this act are hereby repealed.

CORONERS.

An Act defining the Duties of Coroners. [Article 8, Chapter 8, Revised Statutes.]

Coroner to be elected for two years, and to give bond.

(95.) SEC. I. A coroner shall be elected in each organized county in this territory, for the term of two years, who shall, before he enters upon the duties of his office, give bond to the county commissioners in such penal sum, not less than five hundred dollars nor more than ten thousand dollars, with such sufficient sureties, not less than two, as the treasurer of his county shall direct and approve, the condition of which bond shall be, in substance, the same as that required to be given by the sheriff, except in the description of the office; and such bond shall be filed with the clerk of the district court of the proper county.

When coroner to act as sheriff.

(96.) SEC. II. When there shall be no sheriff, or under sheriff, in any county organized for judicial purposes, it shall be the duty of the coroner, in each county, to exercise all the powers and duties of sheriff of his county, until a sheriff shall be elected and qualified; and when the sheriff

for any cause, shall be committed to the jail of his county, such coroner shall be keeper thereof during the time the sheriff shall remain a prisoner therein.

(97.) SEC. III. Every coroner shall serve and execute process of every kind, and perform all other duties of the sheriff, when the sheriff shall be a party in the case, or whenever affidavit shall be made and filed, as provided in the succeeding section; and in all such cases he shall exercise the same powers, and proceed in the same manner as prescribed for the sheriff in the performance of similar duties; and in such cases, the coroner of any county attached to another for judicial purposes, may, in like manner, serve and execute such process, and perform such duties within his own county; and in all such cases, coroners and their sureties shall be liable in the same manner, and to the same extent, as sheriffs are made liable in similar cases.

When to serve process, &c.

(98.) SEC. IV. Whenever any party, his agent or attorney, shall make and file, with the clerk of the district court, an affidavit, stating that he believes the sheriff of such county will not, by reason either of partiality, prejudice, consanguinity or interest, faithfully perform his duties in any suit commenced, or about to be commenced, the clerk shall direct the original or other process in such suit, to the coroner, who shall execute the same in like manner as the sheriff might or ought to have done.

When to serve process, &c.

(99.) SEC. V. Coroners shall take inquest upon view of the dead body of such persons only as shall be supposed to have come to their death by violence, and not when the death is believed to have been, and was evidently, occasioned by casualty.

Shall take inquest upon view of dead body.

(100.) SEC. VI. As soon as any coroner shall have notice of the dead body of any person supposed to have come to his death by violence, found or lying within his county, he shall make his warrant to the constable of the precinct where such dead body is, or one of the adjoining precincts in the same county, requiring such constable forthwith to summon six good and lawful men of the county, to appear before such coroner at the time and place expressed in such warrant; and the warrant may be issued with or without a seal, and in substance as follows:

When shall issue warrant to constable to summon jury.

Territory of Minnesota, }
County of } ss.

Form of warrant.

To either of the constables in the county of _____, greeting:

In the name of the United States, you are hereby commanded immediately to summon six good and lawful men, of the county of _____ to appear before me, coroner of the said county, at the house of _____ or the place called _____ within the town or precinct of _____, at the house of _____, then and there to inquire, upon the view of the body of _____, there lying dead, how and by what means he came to his death; hereof fail not.

Given under my hand the _____ day of _____ A. D.

Coroner.

(101.) SEC. VII. The constable to whom such warrant shall be directed and delivered, shall forthwith execute the same; and shall, at the time mentioned in the warrant, repair to the place where the dead body is, and make return thereof to the coroner, and of his doings thereon, under his hand; and any constable who shall unnecessarily neglect or fail to execute or return such warrant, shall forfeit the sum of five dollars; and if any person summoned as a juror shall fail to appear without a reasonable excuse therefor, he shall forfeit the sum of five dollars, which forfeiture may be recovered to the use of the county, with costs of suit, by civil action, to be brought by the coroner before any justice of the peace in the

Constable to execute warrant.

county; and the jurors summoned as above, shall be allowed one dollar each for their attendance on said jury.

Oath to be administered to jury.

(102.) SEC. VIII. When the jurors who have been summoned shall appear, the coroner shall call over their names, and then, in view of the dead body, administer to them the following oath:

You solemnly swear, or affirm, [*as the case may be*] that you will diligently inquire, and due presentment make, on behalf of the United States of America, when, how and by what means the person whose body lies before you dead, came to his death, and you shall return a true inquest thereof, according to your knowledge and such evidence as shall be laid before you; so help you God.

If the six jurors shall not appear, the coroner may require the constable, or any other person whom he shall appoint, to return jurors from the bystanders to complete that number.

Coroner may issue subpoenas for witnesses.

(103.) SEC. IX. The coroner may issue subpoenas for witnesses, returnable forthwith, or at such time and place as he shall direct. The persons served with subpoenas shall be allowed the same fees, and their attendance shall be enforced in the same manner by the coroner, and they shall be subject to the same penalties, as if they had been served with a subpoena in behalf of the United States of America, to attend a justice's court.

Form of oath to be administered to witnesses.

(104.) SEC. X. An oath to the following effect shall be administered to the witnesses by the coroner:

You solemnly swear that the evidence you shall give to this inquest, concerning the death of the person lying here dead, shall be the truth, the whole truth, and nothing but the truth: so help you God.

Testimony to be reduced to writing.

(105.) SEC. XI. The testimony of all witnesses examined before any inquest shall be reduced to writing by the coroner, or some other person, by his direction, and subscribed by the witnesses, respectively, giving it in.

Jury shall deliver to coroner inquisitions, &c.

(106.) SEC. XII. The jury, upon the inspection of the dead body, and after hearing the testimony, and making all needful inquiries, shall draw up and deliver to the coroner, the inquisition, under their hands, in which they shall find and certify when, how and by what means the deceased person came to his death, and his name if it was known, together with all the material circumstances attending his death; and if it shall appear that he was murdered, the jurors shall further state who were guilty, either as principals or accessories, if known, or were, in any manner, the cause of his death, which inquisition may be, in substance, as follows:

Form of inquisition.

Territory of Minnesota, }
County of } ss.

An inquisition taken at _____, in the county of _____, on the _____ day of _____, A. D. _____, before _____, coroner of the said county of _____,

_____ , upon the view of the body of _____, or a person lying there dead, by the oaths of the jurors whose names are hereunto subscribed, who being sworn to inquire on behalf of the United States of America, when, how and by what means the said _____ (or person) came to his death, upon their oaths do say, [*then insert when, how and by what person, means, weapon or instrument he was killed.*]

In testimony whereof, the said coroner and jurors of this inquest have hereunto set their hands the day and year aforesaid.

Where crime has been committed, coroner to bind over witnesses.

(107.) SEC. XIII. If the jury find that any murder, manslaughter, or assault has been committed on the deceased, the coroner shall bind over, by recognizance, such witnesses as he shall think proper, to appear and testify at the next court to be held in the same county, at which indictment for such offense can be found; he shall also return to the same court,

the inquisition, written evidence, all recognizances and examinations by him taken, and may commit to the jail of the county any witnesses who shall refuse to recognize in such manner as he shall direct.

(108.) SEC. XIV. If any person, charged by the inquest with having committed such offense, shall not be in custody, the coroner shall have the same power as a justice of the peace, to issue process for his apprehension, and such warrant shall be made returnable before any justice of the peace, or other magistrate or court having jurisdiction of the case, who shall proceed therein in the same manner that is required of justices of the peace (or other court) in like cases.

Coroner to have same power as justice in certain cases.

(109.) SEC. XV. When any coroner shall take an inquest upon the view of the dead body of any stranger, or being called for that purpose, shall not think it necessary, on view of such body, that any inquest should be taken, he shall cause the body to be decently buried, and all expenses of the inquisition and burial shall be paid by the county in which such dead body shall be found.

Shall cause the body of deceased strangers to be buried.

(110.) SEC. XVI. *[As amended by laws of 1854, c. 21 § 1, page 60.]* The coroners in the several counties in this territory are hereby authorized to appoint deputy coroners, who shall be appointed in writing, and shall, before entering upon the duties of the office, take and subscribe an oath faithfully to perform the duties of their said office, which oath shall be endorsed on the appointment, and recorded in the office of the clerk of the district court of the proper county, and the persons so appointed shall have the same powers that are hereby conferred on coroners.

Coroners may appoint deputy.

ASSESSORS. (a)

An Act defining the Duties of Assessors.

✓ *[Article 9, chapter 8, Revised Statutes.]*

*Revised by
Chapter 1, § 50*

SEC. I. *[Superseded by township act of 1858.]*

(111.) SEC. II. The said assessors so elected, shall each, on or before the first Monday in January next succeeding their election, file with the board of county commissioners of their proper county, or of the county to which they may be attached for judicial purposes, a bond, with one or more sufficient sureties to be approved of by said board, in such sum as the said board shall direct, conditioned for the faithful performance of his duties, and shall take and subscribe an oath, or affirmation, before some person authorized to administer oaths, to support the constitution of the United States, and faithfully and impartially to discharge the duties of his office, according to law and to the best of his abilities.

To take an oath of office and give bond.

(112.) SEC. III. *[As amended by general laws of 1858, page 289.]* The assessors, after qualifying as above prescribed, shall receive from the board of county commissioners, a blank assessment roll and a plat or chart of their respective districts, and shall, during the month of June or July, in the year for which they were elected to serve, assess all the taxable property within their respective districts, and shall deliver to the board of county commissioners, on or before the first Monday of August thereafter, a full and complete assessment roll, which roll shall set forth a full and precise description of the lands or town lots as owned by each person therein named, which description shall correspond with the plan or map of the original survey, or the plan or plat of any town laid out and recorded according to law, and said lands and all town lots shall be valued

To receive blank assessment roll from board of commissioners.

(a) Article 3, 17, and 18, of the township act of 1858, must be read with this on the subject of the election of assessors and the assessment of property.

at their true cash value, taking into consideration the improvements on the land, and in the surrounding country; the quality of the soil; its convenience to navigation; public roads; mill privileges, and other local advantages.

Personal property not exempt from taxation, how assessed.

(113.) SEC. IV. All personal property, not exempt from taxation, shall be assessed according to its true value in cash, and it shall be the duty of each assessor, to value all improvements on claimed lands within his district as personal property.

Property to be examined by assessor, the owner to be notified.

(114.) SEC. V. All property to be assessed shall be examined by the assessor, and in case of personal property, the owner thereof shall be notified of the time of such examination, if he is to be found, and any assessor may, at his discretion, swear any person to give a true account of his or her property, according to the best of his or her knowledge and belief, and should any person or persons, when so required, refuse to testify as aforesaid, such assessor shall ascertain the taxable property of such person or persons, from the best information to be derived from other sources, and the person or persons so refusing to testify, shall pay to such assessor, the sum of five dollars for extra trouble, which sum may be recovered in a civil action, in the name of said assessor, in any court having competent jurisdiction.

Notice of the examination of the assessment roll to be given.

(115.) SEC. VI. [*As amended by general laws of 1858, page 289.* ^{6, 933/}] Each assessor shall give three weeks' public notice, in some newspaper printed in their respective counties, or by posting up in three conspicuous places within their several districts, notices setting fourth, that on the last Monday in July, the assessors will attend at the office of the register of deeds of their proper county, and with the assistance of the said register of deeds, will publicly examine the assessment rolls, and correct all errors in valuations, descriptions or qualities of lands, lots, or other property, and it shall be the duty of persons interested, to be and appear at the time and place appointed, and if it shall appear during said examination, that there are any lands, lots, or other property assessed twice, or assessed beyond their actual value, or assessed in the name of a person not the owner thereof, or any lands, lots, or other property not assessed, the register and assessors shall make the necessary corrections.

Penalty of, for a neglect of duty.

(116.) SEC. VII. If any assessor shall fail to attend at the time and place required, he shall be liable, under this article, for a violation of his duty, and suffer such fine, or imprisonment, or both, as the district court shall impose: *provided*, that it may be competent for any assessor, in case of his being prevented by sickness, or any other unavoidable cause, from attending as above provided, to appoint some capable and discreet person, having the qualifications of a voter, his deputy, who shall do and perform all the duties of the assessor he represents, and for whose acts the said assessor shall be responsible; and said deputy shall, before he enters on the discharge of the duties of his office, take and subscribe, before the register of deeds, an oath faithfully and impartially to perform the duties devolving upon him, which oath shall be filed in the office of the register of deeds.

Assessor to make out and keep duplicate of assessment roll.

(117.) SEC. VIII. It shall be the duty of the assessor to make out and retain in his possession, a duplicate of his assessment roll, and shall make the necessary corrections therein, from time to time, so that such duplicate will correspond with the assessment-roll or file in the office of the register of deeds, and also to make a plat of the government survey and town plats within his district, and note thereon the owner of each tract of land, and of each town lot, and deliver such duplicate, assessment-roll and plat, and other documents relating thereto, to his successor in office.

(118.) SEC. IX. Each assessor shall receive a compensation of two dollars for each and every day actually and necessarily employed in the discharge of the duties of his office, and such reasonable compensation for the copy of the assessment roll and the plat of the survey as the board of commissioners may allow, which compensation shall be paid out of any moneys not otherwise appropriated in the county treasury.

Compensation of assessors.

(119.) SEC. X. [As amended by general laws of 1858, page 289:] It shall be the duty of each assessor to make out a list of the inhabitants of his district, and file such list with the secretary of the territory, on or before the first Monday of August in each year, and such assessor shall also keep a copy of such list so filed, and deliver the same to his successor in office; and it is hereby made the duty of every head of a family, inn-keeper, or other person, to give a true statement of all names of persons in their families, or living on their premises; and a refusal or neglect to comply with the requirements of this section, shall subject the person so refusing or neglecting to give a true list as aforesaid, after the same has been demanded, to a fine of not less than two nor more than ten dollars, to be recovered before any justice of the peace of the county, in the name of the board of county commissioners for the proper county; which fine when so recovered, shall be paid into the county treasury; and it shall also be the duty of such assessor to make out a true list of all the persons in his district, liable to perform military duty under the laws of this territory, and file the same with the register of deeds of his county.

Assessor to make out a list of the inhabitants of his district, and file the same with the secretary of the territory.

List of those liable to do military duty.

CLERKS OF THE DISTRICT COURT. (a)

An Act defining the Duties of Clerks of the District Courts.

✓ [Article 11, Chapter 8, Revised Statutes.]

SEC. I. [Superseded by section 13, article 6, of the constitution.]

(120.) SEC. II. The clerk appointed in pursuance of the preceding section, shall keep his office at the county seat of his county.

Clerk where to keep his office.

(121.) SEC. III. Before entering upon the duties of his office, each clerk of the district courts of this territory shall execute a bond to the treasurer of his county, with two or more sufficient sureties to be approved by the said treasurer, in the penal sum of one thousand dollars, conditioned for the faithful discharge of his duties as clerk of the district court of his county; the said clerk shall also take and subscribe an oath or affirmation, that he will support the constitution of the United States, and faithfully and honestly discharge the duties of his said office according to the best of his abilities, which oath or affirmation shall be certified on the back of said bond, and filed with the treasurer of the county.

Clerk to take an oath of office and give bond.

(122.) SEC. IV. Any person who may at any time be injured or aggrieved by reason of the violation of the duties of his office, on the part of any such clerk of the district court, or by any willful neglect or refusal to perform any of the duties pertaining to the office of clerk of the district court, as the same are or may be prescribed by law, may institute legal proceedings upon the bond of such clerk, and collect thereon double the amount of damages actually sustained by such aggrieved person, which suit may be brought before any court of competent jurisdiction, and the county treasurer is also authorized and required for every such violation

Who may institute suit on bond of clerk.

(a) Clerks of district courts are required to file their bonds and oaths of office with clerk of supreme court, by general laws of 1858, page 147—published herein under head of "district courts." Clerks are authorized to take acknowledgments of conveyances, by laws of 1856, page 19—published herein under head of "deeds and mortgages."

or neglect of duty, to collect a fine of not less than fifty dollars, for any such violation of duty, or refusal or neglect on the part of said clerk of the district court.

Duties of clerk.

(123.) SEC. V. It shall be the duty of the clerk of the district court, to perform all duties which are or may be assigned him by law, and by the rules of the court of which he is clerk, made in pursuance of the statute in such case provided.

Clerk may appoint deputy.

(124.) SEC. VI. Each and every clerk of the district court may, at his discretion, with the sanction of the judge of his court, appoint a deputy clerk of the district court for whose acts the said clerk shall be responsible; the said deputy shall be appointed under the hand and official seal of the clerk, with the sanction of the judge endorsed on the back of such appointment.

Deputy to take an oath of office, to be filed with register of deeds.

(125.) SEC. VII. Before any deputy clerk of the district court shall enter upon the duties of his office, he shall take and subscribe the same oath or affirmation prescribed, and required to be taken by the clerk of the district court, which oath or affirmation, together with the appointment of such deputy clerk, shall be filed in the office of the register of deeds of the proper county, and any clerk of the district court may, at any time, remove any deputy appointed by him under the provisions of this article.

In the absence of the clerk, deputy may perform the duties of.

(126.) SEC. VIII. In the absence of the clerk of the district court from his office or from the court, the deputy appointed under, and in pursuance of, the provisions of this article, may perform all the duties pertaining to the office of clerk of the district court.

An Act to provide for the Qualification of Clerks of the District Court.

[Passed March 20, 1858.] *E. 20*

Clerk of court to take oath.

(127.) SEC. I. *Be it enacted by the legislature of the state of Minnesota:* That any person who has been or who shall hereafter be elected to the office of clerk of the district court in this state, shall, before entering upon the discharge of the duties of his office, take and subscribe to an oath or affirmation of office before a justice of the peace, or some other person authorized by law to administer oaths, which oath or affirmation shall be in the following form, to wit: I, _____, do solemnly swear (or affirm, as the case may be,) to support the constitution of the United States, and of the state of Minnesota, and faithfully and impartially discharge the duties of the office of clerk of the district court for the county of _____, to the best of my knowledge and ability, during my continuance therein, so help me God, (or under the pains and penalties of perjury);—which oath or affirmation shall be endorsed upon the certificate of his election and filed in the office of the register of deeds of his proper county.

Form of oath.

To be filed with register of deeds.

Duties of clerks; see revised statutes.

(128.) SEC. II. The duties, powers and compensation of the several clerks of the district court, shall be the same as now prescribed by the revised statutes of the territory of Minnesota, for such officers, until otherwise provided by law.

When act shall take effect.

(129.) SEC. III. This act shall take effect from and after its passage.

An Act authorizing the Clerks of Courts to grant Orders of Publication.

[Passed January 22, 1858.]

May grant orders of publication.

(130.) SEC. I. *Be it enacted by the legislature of the state of Minnesota:* That the clerks of the several courts of this state may, and are

hereby authorized and empowered to grant orders of publication in all cases pending in said courts where the courts or judges thereof are, or may hereafter be authorized by law to grant such orders.

(131.) SEC. II. This act shall take effect from and after its pas- When act shall take effect.
sage.

MISCELLANEOUS PROVISIONS.

An Act further defining the Rights, Duties, and Obligations of County Officers.

✓ [Article 12, Chapter 8, Revised Statutes.]

(132.) SEC. I. Every sheriff, clerk of the district court, register of deeds, and county treasurer, shall keep his office at the seat of justice of his county, and in the office provided by the county, if any such has been provided, and if there be none established, then at such place as shall be fixed by special provisions of law, or if there be no such provisions, then at such place as the board of county commissioners shall direct, and shall keep the same open during the usual business hours each day, Sundays excepted, and all books and papers required to be kept in their offices, shall be open for the examination of any person, and if any of said officers shall neglect to comply with the provisions of this section, he shall forfeit for each day he shall so neglect, the sum of five dollars.

Certain officers to keep their offices at county seat, and keep same open.

(133.) SEC. II. Every county officer named in the preceding chapter, shall, before entering upon the duties of his office and within twenty days after receiving official notice of his election or appointment, or within twenty days after the commencement of the term for which he was elected or appointed, execute and deposit his official bond as prescribed by law, and every such officer shall also within the same time, take and subscribe the oath of office, prescribed by law before some officer authorized to administer oaths, and deposit the same with his official bond to be filed and preserved therewith.

When county officers shall execute bond and take oath of office.

(134.) SEC. III. Every deputy appointed by any of said officers, shall, before entering upon his duties under such appointment, take and subscribe the like oath of office, as that above required of the officers appointing him, and shall deposit the same in the office where the bond of such officer is deposited; and in case he shall neglect to take and deposit such oath as aforesaid, he shall forfeit and pay one hundred dollars.

Deputies to take and file oath of office.

(135.) SEC. IV. Copies of all documents, writs, proceedings, instruments, papers and writings, duly filed, or deposited in the office of any judge of probate, register of deeds, clerk of the district court, county treasurer, or clerk of the board of county commissioners, and transcripts from the books of records, or proceedings, kept by any of said officers, with the seal of his office affixed, shall be evidence in all cases, equally and in like manner, as the originals.

Copies of papers, &c., on file with certain officers to be evidence.

(136.) SEC. V. Every county officer named in the preceding chapter, shall hold his office, subject to removal as provided by the laws of this territory, until his successor is elected, or appointed, and qualified.

County officers how long to hold their office.