

THE
STATUTES AT LARGE
OF THE
STATE OF MINNESOTA

COMPRISING

THE GENERAL STATUTES OF 1866

As amended by subsequent Legislation to the close of the Session of 1873

TOGETHER WITH

ALL LAWS OF A GENERAL NATURE IN FORCE, MARCH 7, A.D. 1873

WITH REFERENCES TO

JUDICIAL DECISIONS OF THE STATE OF MINNESOTA, AND OF OTHER
STATES WHOSE STATUTES ARE SIMILAR

TO WHICH ARE PREFIXED

THE CONSTITUTION OF THE UNITED STATES, THE ORGANIC ACT,
THE ACT AUTHORIZING A STATE GOVERNMENT, AND THE
CONSTITUTION OF THE STATE OF MINNESOTA

VOL. I.

COMPILED AND ARRANGED BY

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CHAPTER XI.
OF COUNTIES AND COUNTY OFFICERS.

(Chapter VIII. of the Statutes of 1866.)

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(Vide Chapter II., ante.)

TITLE II.

OF THEIR ORGANIZATION, POWERS, AND DUTIES.

SECTION 1 (75). *Powers of counties.*—Each organized county within this state is a body politic and corporate, and, as such, empowered to act for the following purposes:

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, and to purchase and hold for the benefit of the county, real estate sold by virtue of judicial proceedings in which the county is plaintiff.

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 all other acts in relation to the property and concerns of the county, necessary to the exercise of its corporate powers.

Williams v. Lash, 8. Minn. 496; *Shelly et al v. Lash*, 14 Minn. 498; *Goodnow, v. Board of Coms. of Ramsey Co.*, 11. Minn. 31. *Vide* also 10 Wis. 49.

SEC. 2 (76). *May hold real estate.*—All real and personal estate conveyed by any form of conveyance, to any county, or the inhabitants thereof, or to any person for the use and benefit thereof, or its inhabitants, shall be deemed to be the property of such county; and all such conveyances have the same force and effect as if they were made to the inhabitants of such county by their corporate name.

SEC. 3 (77). *Powers exercised by board of commissioners.*—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. 4 (78, AS AMENDED BY ACT OF MARCH 3, 1870). *Counties to provide suitable court-houses.*—Each county organized for judicial purposes shall provide at the county seat 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.

S. L. 1870, 140; *Chaska Co. v. Supervisors of Carver Co.*, 6 Minn. 240.

SEC. 5 (79). *Process, how served.*—When any action is commenced against a county, the process shall be served on the clerk of the board of county commissioners, either during a session of the board, or so that a session shall be held at least ten days before the return day of such process, and the said clerk shall forthwith notify the county attorney for said county, and lay before the board of commissioners at their next annual meeting all the information he may have in regard to such action. The inhabitants of a county suing or being sued, may be jurors or witnesses, if otherwise competent or qualified according to law.

SEC. 6 (80). *Actions, how brought.*—In all actions 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.

SEC. 7 (81). *Claims disallowed, appeal.*—When the claim of any person against a county is disallowed in whole or in part by the board of county commissioners, such person may appeal from the decision of such board to the district court in the same county by causing a written notice of such appeal to be filed in the office of the county auditor within thirty days after the decision appealed from was made, upon giving security for costs, to be approved by the county auditor. When the claim of any person against a county is allowed in whole or in part by the board of county commissioners, no order shall be issued in payment of such claim or any part thereof until the expiration of thirty days from the date of the decision; and the county attorney may in any case, and if the amount allowed

exceeds twenty-five dollars, he shall, upon the request of seven tax-payers of the county, on behalf of and in the name of such county, appeal from the decision of such board to the district court in the same county, by causing a written notice of such appeal to be filed in the office of the county auditor within thirty days after the date of the decision appealed from; and thereafter no order shall be issued in payment of any part of such claim, until the judgment of the district court in the proceedings shall be certified and filed in the office of the county auditor. When notice of appeal is filed as aforesaid, the district court shall have jurisdiction of the parties and of the subject matter of the proceeding, and may compel a return to be made in the same manner as in case of an appeal from a judgment of a justice of the peace.

Thomas v. County Coms. of Scott Co., 15 Minn. 324; *Murphy v. County Coms. of Steele Co.*, 14 Minn. 67.

SEC. 8 (82). *Proceedings on appeal.*—Upon an appeal being taken as provided in the preceding section, the county auditor shall, without any fee or charge for such service, within ten days thereafter, file in the office of the clerk of the district court in the same county, a certified copy of the claim and a transcript from the record in the auditor's office of the action of the commissioners thereon, with a copy of the notice of appeal and the date of the filing thereof in his office. In case of an appeal by a claimant, the county auditor shall immediately notify the county attorney thereof. The proceeding shall be put upon the trial calendar among the issues of fact for trial at the next general term of the district court in the county, holden after eight days from the date of the appeal; and on or before the second day of such term, the court shall direct pleadings to be made up as in civil actions, and thereon the proceeding shall be tried, all questions of law arising on the case being summarily heard and determined upon the same pleadings; the issues of fact shall be tried as other issues of fact are tried in the same court, and judgment rendered and perfected as in civil actions; but no execution shall issue thereon, except for the collection of a counter claim, or the collection of costs and disbursements, in case of a judgment therefor against a claimant. An appeal from the judgment of the district court may be taken to the supreme court, as in civil actions, within thirty days after the actual entry of the judgment; if no appeal is taken within that time, a certified copy of the judgment shall be filed in the office of the county auditor; and if an appeal is taken to the supreme court, the determination of that court shall be certified to the district court and judgment entered in accordance therewith, and that judgment certified to and filed in the office of the county auditor. In all of which cases, after a certified copy of the judgment is filed in the office of the county auditor, orders shall be drawn on the county treasury in payment of any judgment in favor of a claimant; and execution may issue out of the district court for the collection of any costs against a claimant: *provided*, that in any case where costs are awarded against a claimant, and there is any allowance on the claim in his favor, the amount of such costs shall be deducted from such allowance; and in any case of an appeal, the county may in the district court interpose as a counter claim any demand which the county has against such claimant, and have execution for the collection of any judgment in its favor.

Murphy v. County Coms. of Steele Co., 14 Minn. 67; *Thomas v. County Coms. of Scott Co.*, 15 Minn. 324.

SEC. 9 (83). *Judgment, how collected.*—When any judgment is 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 is to be paid by the county, no execution shall be awarded or issued upon such judgment except as herein provided; but, unless reversed, the amount of such judgment 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 is not made in 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 execution may be issued on such judgment, but the property of the county only is liable thereon: *provided*, that if at the time of the rendition of such judgment, there are sufficient funds belonging to the county in the treasury, the treasurer shall pay the same upon application being made to him by the person in whose favor such judgment was rendered, his agent or attorney.

Vide 10 Wis. 49.

TITLE III.

OF COUNTY COMMISSIONERS.

SEC. 10 (84). *Organized county to have board of commissioners.*—Every county shall be deemed an organized county for the purposes of this title, and shall have a board of county commissioners. In those counties which poll eight hundred votes or more, the said board shall consist of five members, and in all other counties of three members, whose term of office shall be three years, and until their successors are elected, or appointed and qualified.

SEC. 11 (85). *Counties with township organization to be divided into districts.*—The 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, and numbered in numerical order. The said districts shall be bounded by township or ward lines, be composed of contiguous territory, and contain as nearly as practicable an equal population. 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.

SEC. 12 (86). *Commissioners for each district.*—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 like 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.

SEC. 13 (87). *Counties without township organization to be divided into three districts.*—Every county which has not a township organization shall be divided into three commissioner districts, which shall contain as near an equal number of electors as convenient, and in one of each of said districts a commissioner shall be elected, and the person elected from district number one shall hold his office for the

term of one year; the person elected from district number two shall hold his office for the term of two years; and the person elected from district number three shall hold his office for the term of three years: and a commissioner shall be elected annually thereafter, for the term of three years: *provided*, that if the county commissioners are not elected as herein provided for, they shall be appointed by the governor from the qualified electors of the said county, and shall qualify in the same manner as commissioners elected in accordance with general laws.

SEC. 14 (88). *Commissioners, term of office.*—At the first election, when the board of county commissioners will consist of five members, the person elected from district number one shall hold his office for one year, the persons elected from districts number two and three for two years, and the persons elected from districts number four and five for three years, and thereafter the commissioners elected shall hold for the term of three years; and in every county where the board of county commissioners will consist of three members, the person elected from district number one shall hold his office for one year, the person elected from district number two for two years, and the person elected from district number three for three years, and a commissioner shall be elected annually thereafter for three years.

SEC. 15 (89). *Districting, on what based.*—For the first districting under this chapter, and for any re-districting to increase the number of commissioners from three to five, rendered necessary in consequence of increase of population, the votes cast at the last annual election shall be taken as the basis, but this shall not apply to a re-districting based upon any census taken under the authority of the United States, or of this state.

SEC. 16 (90). *Election, proceedings in case of a tie.*—If the requisite number of county commissioners is not elected by reason of two or more persons having an equal number of votes for the said office, the auditor shall give notice in writing to the persons so having 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 said persons 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.

SEC. 17 (91). *Commissioner to take oath.*—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 any person authorized to administer oaths, which oath shall be certified on the back of such certificate by the person administering the same, and said certificate so indorsed shall be filed with the clerk of the district court of the proper county, and thereupon said commissioner shall enter upon the duties of his office.

SEC. 18 (93). *Quorum.*—A majority of the board of commissioners shall be a quorum; but no business shall be done unless voted for by a majority of the whole board.

SEC. 19 (94). *Sessions of board.*—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 year, and may hold such extra sessions as they deem necessary for the interest of the county. Such extra session shall be called by a majority of the board, and the clerk shall give at least ten days' notice thereof

to the commissioners, but no regular session shall continue longer than six days, and no extra session longer than three days.

SEC. 20 (95). *Vacancies, how filled.*—Whenever there is a vacancy in the office of county commissioner from death, resignation, or otherwise, and the interests of the county 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 county seat and fill such vacancy, and the person so appointed shall continue in office until the next annual election, and until the commissioner then elected is 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. 21 (96). *Commissioners to have seal.*—The commissioners shall have and use the seal of the auditor of their county as their common seal, and copies of their proceedings when signed, sealed, and attested, as provided by law, shall be evidence of such proceedings in any of the courts of this state.

SEC. 22 (97). *To choose chairman.*—The commissioners at their annual session in January, or at their first session in each year, shall elect one of their number as chairman, who shall preside at the meetings of the board, and 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 the chairman so elected is absent at any meeting of the board, all documents requiring the signature of the board, shall be signed by all the members present.

SEC. 23 (98). *To select jurors in January.*—The board of commissioners, at their annual meeting in January, shall select from the qualified electors of the several election districts of their respective counties, or of the counties attached thereto for judicial purposes, seventy-two persons, properly qualified, to serve as grand jurors, and the same number of persons, properly qualified, to serve as petit jurors, and shall make out separate lists thereof, which lists shall be certified and signed by the chairman of the board, attested by the clerk, and shall be forthwith delivered to the clerk of the district court: *provided*, that if in any county the county commissioners are not able to select the number required by this section for grand and petit jurors, they shall select a less number, and the highest number possible.

SEC. 24 (99). *May select at any session, when.*—If for any cause such list is not made and delivered as aforesaid, by the board of county commissioners at their annual meeting in January, they shall make out and deliver the same as aforesaid at any regular or special session thereafter.

SEC. 25. (100). *To select persons properly qualified.*—In preparing such list the board of county commissioners shall select such persons as they know, or have good reason to believe, are possessed of the qualifications of jurors and not exempt by law.

SEC. 26 (101, AS AMENDED BY ACTS OF MARCH 3, 1870, AND MARCH 4, 1873). *To provide offices for county officers.*—The board of commissioners shall provide offices and necessary fuel for heating the same for the county auditor, treasurer, register of deeds, sheriff, judge of probate, and clerk of the district court, and suitable furniture for the use of said offices, and desks and safes, or vaults for the preservation and security of the books and papers belonging thereto; and shall provide all books and stationery necessary for the use of the above-mentioned offices, and the probate court and county surveyor; but not more than one

hundred dollars shall be appropriated for books, stationery, and furniture, for any one office in any one year.

S. L. 1870, 104; S. L. 1873, 164.

SEC. 27 (102). *Shall appoint successor to register of deeds.*—In case the office of register of deeds becomes 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, and until his successor is duly elected and qualified.

State *ex rel* Mantorville, 14 Minn. 437.

SEC. 28 (103, AS AMENDED BY ACT OF MARCH 4, 1872). *Shall make annual statement of receipts and expenditures.*—The board of commissioners on the third Tuesday of March annually, shall make a full and accurate statement of the receipts and expenditures of the preceding year, which statement shall contain a full and correct description of each item, from 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 shall within thirty days thereafter have the same posted up at the court house door, and at two other public places in their county, and published in some newspaper therein, if there is one, for three successive weeks. Said board shall, at its meeting in September and January of each year, examine and count all the funds in the treasury, and shall examine the accounts and vouchers of the auditor and treasurer, and make a written certificate of the condition of the treasury, and file the same with the auditor, showing how much money, and what kind, is in the treasury, and all other matters in connection therewith.

S. L. 1872, 125.

SEC. 29 (104, AS AMENDED BY ACT OF MARCH 4, 1869). *Powers of county commissioners.*—Said board have final 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. 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 be divided, or have any part stricken therefrom, without first submitting the question to a vote of the electors of the town, except in cases provided for in section two (2) of chapter ten (twelve) of said general statutes.

S. L. 1869, 43; Bingham *v.* Supervisors Winona Co., 6 Minn. 136; Town of Mantorville *v.* Mantor, 14 Minn. 437; Supervisors of Maple Grove *v.* Board of Coms. of Wright Co., 12 Minn. 403.

SEC. 30 (105). *Shall appoint assessors.*—The board of commissioners of any county, not divided into towns, shall, at their stated meetings in said county in each year, divide their county into road and assessment districts, and 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.

SEC. 31 (106). *Shall establish election districts.*—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 of 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.

SEC. 32 (107). *Shall appoint judges of election.*—The board of commissioners of such county, at their session last before an election, shall appoint judges of election for each election district, and 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.

SEC. 33 (108). *Officers to be elected.*—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 are elected and qualified, and shall take the oath of office and execute the bond required of town justices and constables, 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.

SEC. 34 (109). *Official oaths and papers, where filed.*—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. 35 (110). *Commissioner not to take fee, nor be interested in contract.*—No county commissioner shall receive any money or other valuable thing as a condition or inducement to voting for any contract under consideration of the board, nor shall he become a party to, or interested in, directly or indirectly, any contract made by the board; and every contract voted for or made contrary to the provisions of this section is void.

TITLE IV.

OF COUNTY AUDITORS.

SEC. 36 (111). *Each county to elect auditor.*—There shall be elected in each organized county a county auditor, who shall hold his office for two years from the first Monday of March next succeeding his election, and until his successor is elected and qualified, and shall keep his office at the county seat.

SEC. 37 (112). *Auditor to give bond and take oath.*—Each county auditor, previous to entering upon the duties of his office, shall give bond to the state of Minnesota with two or more sureties, to be approved by the board of county commissioners in such penal sum, not less than two thousand dollars nor more than twenty thousand dollars, as the said commissioners require, conditioned for the faithful discharge of the duties of his office, and shall also take and subscribe the oath required by law to be endorsed upon the said bond, which bond so endorsed shall be filed and recorded in the office of register of deeds.

SEC. 38 (113, AS AMENDED BY ACT OF FEB. 21, 1871). *Neglect of duty, penalty.*—If any county auditor fails to make settlement or pay over all monies with which he stands charged at the time and in the manner prescribed by law, or misapplies any money which comes into his possession in the discharge of his official duties, the county commissioners shall commence an action against such auditor and his sureties in the district court of said county, or other court of competent jurisdiction. And when complaint in such action is made, the said commissioners shall cause a copy thereof to be forthwith furnished to the governor of the state, who shall if the complaint alleges any of the acts of neglect, or offenses hereinbefore recited, suspend such auditor temporarily, and cite him to appear and show cause why such suspension should not continue during the pending of the action. Either party may produce competent evidence by affidavits or otherwise at the time of such hearing, and if there appears to be reasonable grounds to support the charges of said complaint, the governor may continue such suspension during the pendency of the action, otherwise he shall restore him to office. In case of suspension under the provisions of this section, such auditor if restored to office shall not be deprived of his salary during the time of suspension, and his reasonable expenses in defending himself upon such hearing before the governor shall be paid by the county. If upon the trial of such action such auditor is adjudged guilty of any neglect of duty or offense charged, the office shall be deemed to be vacant.

S. L. 1871, 152.

SEC. 39 (114). *Action against, how brought.*—An action may be brought against the county auditor and his sureties in the name of the state of Minnesota, and for its use or for the use of any county or person injured by the misconduct in office of the auditor, or by the omission of any duty required of him by law.

SEC. 40 (115). *Effect of failure to qualify.*—If any person elected to the office of county auditor shall not give bond and take the oath aforesaid, on or before the first Monday of March next after his election, it shall be deemed a refusal to serve.

SEC. 41 (116). *Vacancy, how filled.*—When from any cause a vacancy happens in the office of county auditor, the board of county commissioners shall appoint some suitable person to fill such vacancy, and the person so appointed shall give bond, and take and subscribe the oath aforesaid, and shall hold his office until the next annual election, and until his successor is elected and qualified.

SEC. 42 (117). *Temporary disability, how provided for.*—When any county auditor, having no deputy, is unable, by reason of sickness, or from any other cause, to perform the duties of his office, within the time specified by law for their performance, or when both the auditor and his deputy are so disabled by sickness or otherwise, the board of county commissioners shall appoint some suitable person to do and perform the duties of county auditor during such disability, and may require of the person so appointed such bond and security for the faithful discharge of the duties of the appointment, as they deem expedient.

Crowell v. Lambert, 10 Minn. 369.

SEC. 43 (118). *Who ineligible.*—No county commissioner, county surveyor, or county treasurer, is eligible to the office of county auditor.

SEC. 44 (119). *May appoint deputy.*—County auditors are authorized to appoint deputy auditors by a certificate in writing, who shall, before entering upon the duties of their office, take and subscribe the oath required by law, which oath

shall be indorsed on the certificate of appointment, and filed in the office of the register of deeds. Such deputies are authorized to sign all papers and do all other things which county auditors themselves may do. The county auditors shall be responsible for the acts of their deputies, and may revoke their appointment at any time. They shall require bonds of their deputies in such amounts and with such sureties as they may deem proper.

SEC. 45 (120). *Shall be clerk of board.*—The county auditor shall, by virtue of his office, be clerk of the board of county commissioners of his county, and keep an accurate record of their official proceedings, and carefully preserve all the documents, books, records, maps, and other papers, required to be deposited or kept in his office.

SEC. 46 (121). *Shall deliver money, books, papers, etc., to successors.*—On going out of office he shall deliver up to his successor in office all the moneys books, records, maps, documents, papers, vouchers, and other property in his hands belonging to the county; and in case of the death of any county auditor, his personal representatives shall, in like manner, deliver up all such books, moneys, records, maps, documents, and other property.

SEC. 47 (122). *Keep account with treasurer.*—He shall keep an accurate account current with the treasurer of his county, and when any person shall deposit with the auditor any receipt given by the treasurer for any money paid into the treasury, the auditor shall file such receipt in his office, and charge the treasurer with the amount thereof.

SEC. 48 (123). *Claims, how allowed—money, how disbursed.*—No claims against the county shall be paid otherwise than upon the allowance of the county commissioners upon the warrant of the chairman of the board, attested by the county auditor, except in those cases in which the amount due is fixed by law, or is authorized to be fixed by some other person or tribunal, in which cases the same shall be paid upon the warrant of the county auditor, upon the proper certificate of the person or tribunal allowing the same: *provided*, that no public money shall be disbursed by the county commissioners, or any of them, but the same shall be disbursed by the county treasurer, upon the warrant of the chairman of the board of county commissioners, attested by the county auditor, specifying the name of the party entitled to the same, on what account, and upon whose allowance, if not fixed by law; and all such orders shall be progressively numbered, and the number, date, and amount of each, and the name of the person to whom payable, and the purpose for which drawn, shall, at the time of issuing the same, be entered in a book to be kept by the auditor for that purpose.

SEC. 49 (ACT OF MARCH 6, 1871). *County auditors authorized to administer oaths.*—County auditors duly elected and qualified in the several counties of this state, are by this act authorized and empowered to administer oaths in their respective counties and certify the same under the seal of their office, but no deputy auditor, as such, shall exercise such power under this act.

TITLE V.

OF COUNTY TREASURERS.

SEC. 50 (125). *Each county to elect treasurer.*—In each county there shall be elected a county treasurer, whose term of office shall commence on the first day of March next succeeding his election, and continue for two years, and until a successor is elected and qualified.

SEC. 51 (126). *Treasurer to take oath and give bond.*—The county treasurer, before he enters upon the duties of his office, shall take the oath required by law; which oath shall be subscribed and certified on the back of the certificate of his election, and filed and recorded in the office of the register of deeds; and he shall give bond with two or more sureties, freeholders, to be approved by the board of county commissioners, and in such sum as they direct, payable to the state of Minnesota, and conditioned for the safe keeping and paying over according to law, of all moneys which come into his hands for state, county, township, school, road, bridge, poor, town, and all other purposes; which bond shall be filed and recorded in the office of the register of deeds in said county.

Coms. of Hennepin Co. v. Jones et al, 18 Minn. 199.

SEC. 52 (127). *Effect of failure to qualify.*—If any person elected to the office of county treasurer, shall not give bond and take oath, as required by the preceding section, on or before the fifteenth day of January next succeeding his election, it shall be deemed a refusal to serve.

SEC. 53 (128). *Vacancy, how filled.*—In case of a vacancy in the office of county treasurer, by death, resignation, or otherwise, the board of county commissioners shall appoint some suitable person, a resident and qualified elector of their county, to be treasurer, who shall file the bond and take the oath prescribed by section fifty-one (one hundred and twenty-six) aforesaid, and shall hold the office until a county treasurer is elected and qualified: *provided*, that no person who holds the office of county attorney, sheriff, register of deeds, county auditor, or county commissioner, at the time of said election, shall be eligible to said office of county treasurer.

SEC. 54 (129). *Treasurer to have office at county seat, and keep books.*—Each county treasurer shall keep his office at the county seat, and shall keep a fair and accurate account of all moneys by him received, showing the amount thereof, the time when, by whom, and on what account paid. He shall keep his books so as to show the amount received and paid on account of separate and distinct funds, or appropriations, which he shall exhibit in separate accounts: *provided*, that no money received for taxes charged in the duplicate of the current year, shall be entered by the treasurer on his account with the county until he makes his annual settlement with the county auditor and commissioners in each year. The treasurer's books shall be provided at the expense of the county.

SEC. 55 (130). *Shall receive and pay out moneys.*—The county treasurer shall receive all moneys directed by law to be paid to him as such treasurer, and shall pay them out only upon the order of the proper authority. All moneys belonging to the county shall be paid out upon the order of the board of county commis-

sioners, signed by the chairman thereof, and attested by the county auditor, and not otherwise. All moneys due the state, arising from the collection of taxes, or other sources, shall be paid upon the draft of the state auditor drawn in favor of the state treasurer, a duplicate copy of which the state auditor shall forward to the county auditor, who shall preserve the same and credit the county treasurer with the amount thereof.

SEC. 56 (131, AS AMENDED BY ACT OF MARCH 10, 1873). *Shall give duplicate receipts—shall deposit funds in banks—shall keep books accurately, etc.—banker to deposit bond.*—When any money is paid to the county treasurer, excepting that paid on account of taxes charged on duplicate, the treasurer shall give the person paying the same duplicate receipts therefor, one of which he shall forthwith deposit with the county auditor in order that the county treasurer may be charged with the amount thereof, and there is hereby created a board of auditors for each of said counties in this state, which board shall consist of the county auditor, chairman of the board of county commissioners, and clerk of the district court of either of said counties in this state, whose duty it shall be to carefully examine and audit the accounts, books, and vouchers of the treasurer of their respective counties, and to count and ascertain the kind, description, and amount of funds in the treasury of said county or belonging thereto, at least three times in each year, without previous notice to the treasurer, and make report thereof, and of their acts and doings in the premises, to the county commissioners at their next meeting after such examination, and to publish the result of such examination in one or more newspapers in their respective counties, and also to witness and attest the transfer and delivery of accounts, books, vouchers, and funds by any outgoing treasurer to his successor in office, and report the same to the board of county commissioners at their next meeting after the term of office of any treasurer shall expire.

Second. All the funds of any of said counties in the state shall be deposited by the county treasurer in one or more designated national banks, or state or private bank or banks, on or before the first day of each month, in the name of the proper county of which said board are officers. Such bank, or banks, or bankers, shall be designated by the said board of auditors, in their discretion, after advertising in one or more newspapers published in their respective counties for at least two weeks for proposals, and receiving proposals, stating what security would be given to said county for such funds so deposited, and what interest on monthly balances of the amount deposited upon condition that said funds with accrued interest shall be held subject to draft and payment at all times on demand: *provided*, that the amount deposited in any bank or banking house shall not exceed the assessed capital stock of said bank or banking house, as shall appear upon the duplicate tax list. Every payment of the county treasurer shall be made on the warrant of the county auditor, or the chairman of the board of county commissioners, duly attested by the county auditor.

Third. The treasurer shall keep the books of his office in such way and manner as to show plainly and accurately every receipt and disbursement or payment daily, and on the same day on which such receipt and payment, or either of them, actually occurs, and no unfinished business shall be kept or entered upon loose memoranda or slips of paper, and the said treasurer's books shall be balanced plainly and accurately every business day.

Fourth. Before any national, state, or private bank or banker shall be designated as such depository, such bank or banker shall deposit with such treasurer a bond payable to said county, and signed by not less than five freeholders of said county as sureties, which bond shall be approved by the board of county commissioners, and shall be in such amount as said board shall direct, which amount shall be at least double the amount of funds to be deposited with such bank or banker. It is hereby made the duty of the officers designated, and also of the board of county commissioners of the several counties in this state, to comply with all the provisions of this act: *provided*, that counties in which there are no such bank, banks, or bankers, may be exempt from the provisions of this act so far as it relates to the depositing the funds of such counties with any such banks or bankers, if in the judgment of the auditing board and board of county commissioners of any such county it would be detrimental to the interest of such county to make such disposition.

SUB-DIV. 2. *Fees of board of auditors.*—The board of auditors shall each be entitled to the sum of three dollars for each day actually employed in the discharge of their duties under this act.

SUB-DIV. 3. *Neglect of board, how punished.*—Any member of the board of auditors hereby created, or of the board of county commissioners, who shall neglect or omit to discharge any of the duties imposed by this act, shall be deemed guilty of a misdemeanor, and upon conviction shall be liable to a fine of not less than one hundred dollars nor more than five hundred dollars.

SUB-DIV. 4. *Treasurer and sureties exempt, when.*—Whenever any portion of the funds of any county shall be deposited by any county treasurer in the manner as provided in the act, such treasurer and the sureties on his bond shall be exempt from all liability thereon by reason of the loss of any such deposited funds from the failure, bankruptcy, or any other acts of any such bank or banker to the extent and amount of such funds in the hands of such bank or banker at the time of such failure or bankruptcy.

S. L. 1873, 157.

SEC. 57 (132). *Exhibit accounts to commissioners.*—On the last day of February and tenth day of October in each year, the treasurer shall exhibit his accounts since the last settlement, balanced to said day, to the board of commissioners and county auditor, and in the event of the board of commissioners not being in session, then to the county auditor alone, showing all the moneys received and disbursed by him since his last settlement, and the balance remaining in his hands. The books, accounts, and vouchers of the treasurer, and all moneys remaining in the treasury, shall at all times be subject to the inspection and examination of the board of county commissioners, or any committee thereof.

Vide Sec. 55.

SEC. 58 (133). *Shall make settlement, when.*—The county treasurer shall, on the last day of February and on the tenth day of October in each year, make settlement with the board of commissioners, or with the county auditor of his county, and at such settlement in February, return to said auditor the tax duplicate for the current year, showing the amount which remains unpaid thereon.

Vide Sec. 55.

SEC. 59 (134, AS AMENDED BY ACT OF MARCH 5, 1869). *Shall settle with*

auditor, when.—The county treasurer shall, on the last day of February, the fifteenth day of June, and the tenth day of October in each year, make settlement with the auditor of his county, and on the fifteenth day of March and the first day of November in each year, the county treasurer shall send by express, from the nearest public express office, to the state treasurer, all moneys by him received for state purposes, according to the last certificate of settlement with the auditor of his county, and the state auditor is hereby authorized to draw upon any county treasurer, in favor of the treasurer of state, for any money in the county treasury belonging to the state, at any time after the June settlement in each year, as herein provided for; and the county treasurer shall pay such drafts to an amount equal to the June certificate of settlement with the auditor of his county, and the state treasurer shall give duplicate receipts for the moneys so paid, one of which he shall deposit with the state auditor. And the county treasurer is hereby required to pay over to any town, city, or school district treasurer, any money found to be in the county treasury, at either of the within-named settlements, belonging to any town, city, road, or special school fund, or other fund, in the manner required by law, and to take duplicate receipts therefor, one of which he shall transmit by mail on or before the fifteenth day of March next thereafter, to the clerk or recorder of the town, city, or school district, to which treasurer the money is paid, which receipt shall be filed and safely kept by said clerk or recorder in his office.

S. L. 1869, 45. *Vide* Sec. 55.

SEC. 60 (135). *Failure to settle—penalty.*—If any county treasurer fails to make settlement with the state treasurer within fifteen days of the time herein prescribed, he shall forfeit and pay the sum of one hundred dollars, in addition to the penalties provided in the next section, to be recovered in a civil action, which forfeiture shall be paid into the state treasury to the credit of the common school fund: *provided*, that the auditor of state at any time before an action is commenced, may for good cause shown, remit said penalty.

SEC. 61 (136). *Action against.*—If any county treasurer fails to make return or settlement, or to pay over all money with which he stands charged, at the time and in the manner prescribed by law, the county auditor, on receiving instructions for that purpose from the auditor of state, or from the county commissioners of his county, shall cause an action to be commenced against such treasurer and his sureties, in the district court of his county; and judgment may be rendered therein against them for the amount due from such treasurer with interest and a penalty of ten per centum thereon.

Coms. of Hennepin Co. v. Jones, 18 Minn. 199.

SEC. 62 (137). *May be removed, when.*—Whenever an action is commenced against any delinquent county treasurer, as aforesaid, the county commissioners may, at their discretion, remove such treasurer from office, and appoint some one to fill the vacancy thereby created, as hereinbefore provided.

SEC. 63 (138). *Sheriff to pay over money collected of delinquent treasurer.*—The sheriff or other officer who collects any money from a delinquent county treasurer or his sureties, shall, within ten days after the collection thereof, pay the same into the treasury of the county to which such money is due.

SEC. 64 (139). *Officer refusing to execute process—penalty.*—If any sheriff or other officer, to whom an execution against a delinquent treasurer and his sureties is delivered, neglects or refuses to execute the same, or neglects or refuses to pay

over any money collected thereon, as required in the preceding section, he and his sureties shall be liable to the same penalties, and shall be proceeded against in the same manner as is herein provided in relation to delinquent treasurers.

SEC. 65 (140). *Deputy treasurer, proceedings against.*—If the deputy treasurer fails to pay over to his principal, on demand, any taxes or other money by him collected as deputy treasurer, the same proceedings may be had against him and his sureties at the instance of the treasurer, as are by this title authorized against treasurers for failing to make payment according to law.

McCormick *et al v. Fitch*, 14 Minn. 252.

SEC. 66 (141). *New bond may be required.*—The county commissioners may require the county treasurer to give a new bond with sureties to be approved by them, whenever in the opinion of a majority of said commissioners, the sureties, or any of them, on the original bond are deemed insufficient for any cause, and may also require a new bond with sureties to be approved by them, whenever the penalty of such original bond is deemed insufficient: *provided*, that when a new bond is taken under the provisions of this section, the original bond and the rights and liabilities of the parties thereto, incurred or existing at or prior to the time of the approval and acceptance of such new bond, shall not be anywise affected or impaired.

SEC. 67 (142). *Effect of failure to give new bond.*—If any county treasurer fails or refuses to give such additional bond, for and during the time of ten days from and after the day on which said commissioners require said treasurer so to do, his office shall be considered vacant, and another treasurer shall be appointed agreeably to the provisions of section fifty-three (one hundred and twenty-eight) of this title.

SEC. 68 (143). *Not to be interested in contract for warrants or orders—penalty.*—No county treasurer or deputy county treasurer shall either directly or indirectly contract for or purchase any orders or warrants issued by the county of which he is treasurer, or any state warrants or town orders, or of any city, town, or other body politic for which he is the collector of taxes, at any discount whatever, upon the sum due on such orders or warrants; and if any treasurer or deputy treasurer directly or indirectly contracts for, purchases, or procures any such orders or warrants, at any discount whatever upon the sum for which the same are respectively issued, he shall not be allowed on settlement the amount of said warrants or orders, or any part thereof, and shall also forfeit the whole amount due on such warrants or orders, and shall also forfeit the sum of one hundred dollars for each and every breach of the provisions of this section, to be recovered in a civil action at the suit of the state for the use of the county. And the treasurer of state or the person to whom the county treasurer of any county is required to return the state, county, township, city, town, village, school, or road tax, is hereby respectively prohibited from receiving from any county treasurer any orders, warrants, or bonds in payment of taxes collected by him or his deputies, unless with said orders, warrants, or bonds, said county treasurer shall file his affidavit with the treasurer of state or the person entitled to receive said tax, stating therein that all such orders, warrants, and bonds were received at their par value; and whoever swears falsely in such affidavit is guilty of perjury, and upon conviction shall be punished by confinement in the state prison not more than three years.

SEC. 69 (144). *Penalty for loaning county funds.*—If any county treasurer loans any money belonging to his county, with or without interest, or uses the

same for his own individual purpose, he shall forfeit and pay for every such offense a sum not exceeding one thousand dollars, nor less than five hundred dollars, to be recovered in a civil action at the suit of the state, for the use of the county, city, town, or body politic injured.

SEC. 70 (145). *Shall publish statement of county affairs.*—The treasurer and auditor of every county conjointly shall make out and cause to be published in at least one newspaper of general circulation in the county in and for which they are such treasurer and auditor, a statement of the exact amount of money remaining in the treasury of such county on the last day of February and tenth day of October in every year, and oftener if the commissioners of the county direct, particularly specifying in such statement the amount belonging to each particular fund, together with all other property, bonds, securities, claims, assets, and effects belonging to the county, in the custody or under the control of such treasurer. Such statement shall be signed by said county treasurer and auditor, and the expense of such publication shall be paid out of the county treasury, on warrants drawn by the chairman of the board of county commissioners, and attested by the county auditor, particularly specifying the same; and if at any time it is found that such statement was untrue or false, in regard to the amount of money or other property then on hand and in the treasury, the said treasurer and said auditor making the same shall, without regard to lapse of time, be deemed guilty of a misdemeanor, and on conviction thereof shall be sentenced to pay a fine of not less than one hundred dollars nor more than five hundred dollars.

SEC. 71 (146). *May prosecute appeal bonds.*—The treasurers of the several counties may, in their official capacity, prosecute to final judgment and execution, all actions on bonds, notes, or other securities given to them or their predecessors in office, and all actions commenced by their predecessors in office, and pending at their removal therefrom.

SEC. 72 (147). *Shall pay and deface orders.*—The county treasurer when any order drawn on him as treasurer, by the auditor of the county, signed by the chairman of the board of county commissioners, is presented for payment, shall, if there is money in the treasury for that purpose, redeem the same, and shall write on the face of such order "redeemed," the date of the redemption, and sign his name thereto. County orders properly drawn and attested shall be entitled to preference as to payment, according to the time when presented; and upon the receipt of money into the treasury, the treasurer shall appropriate and set apart the money necessary for the payment of the county orders so presented.

Morgan v. Smith, 4 Minn. 104.

SEC. 73 (148). *Shall deposit orders.*—He shall, on the last day of February and the tenth day of October, in each year, deposit with the auditor of his county, all orders on the treasury by him redeemed, and take the auditor's receipt therefor, the said orders being at that time, and in presence of the treasurer, so far canceled by the auditor as to prevent their being again issued.

SEC. 74 (149). *Shall be allowed express charges, when.*—Express charges shall be paid for forwarding state moneys, and mileage allowed to each county treasurer for travelling fees in going to and returning from the nearest express office, in order to send by express to the state treasurer, the moneys received by him for state purposes, at the rate of ten cents per mile, to be computed by the auditor of state, according to the distance on the nearest post route.

SEC. 75 (151). *Shall deliver money, books, etc., to successor.*—Each county

treasurer on going out of office shall deliver to his successor in office all the public money, books, accounts, papers, and documents in his possession; and in case of the death of any county treasurer, his legal representatives shall in like manner deliver up all such moneys, books, accounts, papers, and documents as come into their possession.

TITLE VI.

OF REGISTERS OF DEEDS.

SEC. 76 (152, AS AMENDED BY ACT OF MARCH 5, 1868). *Register of deeds elected in each county.*—In each county there shall be elected a register of deeds, whose term of office shall be two years and until his successor is elected and qualified, who shall hold his office at the county seat of the county in which he shall have been elected.

S. L. 1868, 60.

SEC. 77 (153). *Shall take oath and give bond.*—Every register of deeds, before he enters upon the duties of his office, shall take and subscribe the oath prescribed by law; which said oath shall be indorsed 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 is attached for judicial purposes; and he shall also give a bond, payable to the state of Minnesota, with good and sufficient sureties, in the penal sum of one thousand dollars, to be approved by the board of commissioners of his county, conditioned that he will faithfully and impartially fulfil the duties of his office.

SEC. 78 (154). *Shall deliver records to successor—penalty for refusal.*—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, shall deliver over promptly, all books, records, papers, and other property pertaining to his office; and if, on such application, he refuses 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 so refuses, which may be recovered in an action brought upon his official bond.

SEC. 79 (155). *Books to be kept.*—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:

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.
	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 aforesaid, as soon as the same are received, all deeds and other instruments left for record, and all copies left as cautions or notices of liens, authorized by law to be recorded, and 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, where 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 is the initial letter of the grantor's surname; and in the grantee's reception book, under the letter which is 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 make an entry in the record immediately after the copy of every instrument recorded, specifying the time of the day, month, and year when the same was recorded, and 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.

Hough v. Board of Commissioners of Ramsey Co., 9 Minn. 23; *Mapes v. Board of Commissioners of Olmsted Co.*, 11 Minn. 367.

SEC. 80 (AET OF MARCH 2, 1870). *Register shall indorse upon instrument what.*—It shall be the duty of every register of deeds to indorse upon every instrument recorded by him, over his official signature, the time when it was received, and the book and page in which it was recorded, and every instrument shall be considered as recorded at the time so noted.

SUB-DIV. 2. *Certificate shall be valid, etc.*—The certificate so made shall be valid without the official seal of the register being attached thereto; and the certificate or indorsement heretofore made upon such instruments by registers of deeds, in the form of a certificate, are hereby legalized and declared to be a sufficient compliance with the provisions of the statute on this subject, and shall be received in evidence, notwithstanding the same may not be attested by the official seal of such register.

S. L. 1870, 113.

SEC. 81 (156). *Register shall exhibit records free of charge.*—The register shall 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 papers in his official custody, to the inspection of any person demanding to see the same. But no register of deeds is bound to record any deed or mortgage or other instrument unless the fees therefor are tendered him in advance.

SEC. 82 (157). *Shall keep books.*—He shall keep suitable books, and 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 in separate books an alphabetical index, wherein he shall record, 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.

Whittacre et al v. Fuller, 5 Minn. 508.

SEC. 83 (158). *May appoint deputy.*—He may appoint a deputy register, in writing, who shall, before entering upon the duties of his office, take and subscribe an oath faithfully to perform the duties of his office, which oath shall be indorsed on the appointment, and recorded in the office of the register of deeds. Registers of deeds shall be responsible for the acts of their deputies, and may revoke their appointment at pleasure.

SEC. 84 (159). *Record description of marks or brands.*—The register of deeds, on the application of any person residing in his county, shall record a description of the marks or brands, with which such person may be desirous of marking his horses, cattle, sheep, or hogs; but the same description shall not be recorded for more than one resident of the same county.

SEC. 85 (160). *Shall make abstracts of title to real estate.*—The register of deeds shall make out, under his certificate and seal, and deliver to any person requesting the same, a full and perfect abstract of the title to any real estate, together with all incumbrances, liens, and instruments, in any manner affecting such title as the same appears of record or on file in his office, on being paid his lawful fees therefor.

Bidwell v. Coleman, 11 Minn. 78.

SEC. 86 (161). *Not to record instruments unless properly executed.*—No register of deeds shall record any conveyance, mortgage, or other instrument by which any interest in real estate is or may be in any way affected, unless the same is duly signed and executed and acknowledged according to law; and any such officer offending herein shall be adjudged guilty of a misdemeanor, and on conviction be subject to fine and imprisonment, and liable in damages to the party injured in a civil action.

SEC. 87 (162). *May administer oaths.*—Registers of deeds are authorized and empowered to administer oaths and take acknowledgments of deeds, conveyances, and other instruments in writing. But no deputy register shall have power to perform any of the acts authorized by this section.

SEC. 88 (163). *Shall have and use seal.*—Every register of deeds shall have an official seal, and affix the same to all documents requiring his official signature.

SEC. 89 (ACT OF MARCH 7, 1870, AS AMENDED BY ACTS OF MARCH 6, 1871, AND MARCH 10, 1873). *Register to keep tract index books.*—The county commissioners of every county of this state are hereby authorized to procure, at the expense of their counties respectively, and keep in the office of the register of deeds of such county, a suitable book or books, substantially bound, and so ruled and arranged that opposite to the description of each section of land or sectional lot, and town, city, or village lot, and block (which description shall be arranged in numerical order), shall be a blank space of a convenient size in which shall be entered the letter or letters, numerical or numerals, indicating the volume of the records referred to, designating deeds by the letter "D," and mortgages by the letter "M" (or deeds may be designated from mortgages by being minuted in black ink, and mortgages minuted in red ink), and other records by appropriate initials or abbreviations, together with the page of the volume upon which each and every record affecting or incumbering the titles to the whole or any part thereof may be found. And such county commissioner shall pay for making such entries in such books, a sum not exceeding two cents for each necessary entry or description in such book or books as to all entries made therein of records of instruments

which were recorded prior to the making of such tract index. After such tract index shall have been made, it shall be kept in the office of the register of deeds, as one of the records of such office, and the register of deeds is hereby required to note in such tract index a like minute of every instrument affecting the title to any land which shall be filed for record in such county, such minute to be made opposite to each parcel of land, the title to which is or may be affected by such instruments: *provided*, that in case there now is any accurate tract index or abstract title in any county in this state owned by any individual, the county commissioners may purchase such tract index or abstracts, instead of causing a tract index to be made, and thereafter the register of deeds shall make the appropriate entries therein of each instrument filed, or filed for record in his office, and relating to real estate, and shall receive a fee of ten cents for indexing each transfer of deeds and mortgages hereafter, the same to be paid by persons presenting the same for filing, for record or discharging an instrument on the margins of record, and shall make abstracts for persons demanding the same at a fee of fifteen cents for each transfer.

S. L. 1870, 111; S. L. 1871, 157; S. L. 1873, 132.

TITLE VII.

OF SHERIFFS.

SEC. 90 (164). *Each county shall elect a sheriff—term of office.*—There shall be elected in each county a sheriff, who shall hold his office for two years, and until his successor is elected and qualified.

SEC. 91 (165). *Shall give bond and take oath.*—Every person elected or appointed to the office of sheriff shall, before he enters on the duties of said office, give bond to the state of Minnesota in the penal sum of five thousand dollars, with two or more sureties to be approved by the board of commissioners, and the approval indorsed thereon, conditioned that the said sheriff shall well and faithfully, in all things, perform and execute the duties of sheriff according to law, during his continuance in office, without fraud, deceit, or oppression, which bond shall be filed and recorded in the office of register of deeds of his county. He shall also take the oath required by law, which shall be subscribed to and certified by the officer administering the same on the back of his certificate of election, and filed and recorded in the office of register of deeds aforesaid.

Coms. of Ramsey Co. *ex rel v.* Brisbin, 17 Minn. 451.

SEC. 92 (166). *Effect of failure to qualify.*—If any person elected to the office of sheriff does not give the bond and take the oath prescribed in the preceding section on or before the tenth day of January next succeeding his election, it shall be deemed a refusal to serve.

SEC. 93 (167). *Powers and duties.*—The sheriff shall keep and preserve the peace in his county, for which purpose he is empowered to call to his aid such persons or power of his county as he deems necessary. He shall also pursue and apprehend all felons, execute all warrants, writs, and other process from a justice of the peace, district court, or other competent tribunal, directed to him by legal

authority; shall attend upon the terms of the district court, keep his office at the county seat, and perform all the duties pertaining to his office.

SEC. 94 (168). *Vacancy, how filled.*—In case of a vacancy in the office of sheriff by death, resignation, or otherwise, the board of county commissioners shall forthwith appoint some suitable person to be sheriff of the county until the next general election, and until a successor is elected and qualified.

SEC. 95 (169). *Sheriff shall give certificate, when.*—Every sheriff to whom any process is 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 process shall be mentioned.

SEC. 96 (170). *Failure to settle and pay over money—penalty.*—If any sheriff fails to settle with and pay over to the person entitled thereto any money he may have collected or received by virtue of any execution, process, judgment, order, or decree, such person may proceed against the sheriff in a summary manner before the district court by an order upon the sheriff to show cause why he should not pay over such money; and upon the hearing thereof, the court shall order such sheriff to pay to the person entitled thereto the amount found due, with twenty per centum thereon as damages for such failure, and may commit such sheriff to the common jail until the order is complied with: *provided*, that nothing herein contained shall prevent such person from proceeding against such sheriff and his sureties on his official bond.

SEC. 97 (171). *Neglect to return process—penalty.*—If any sheriff neglects to make due return of any writ, or other process, delivered to him to be executed, or is guilty of any misconduct in relation to the execution thereof, he may be proceeded against by the party interested in the manner provided in the preceding section, and in addition to requiring the performance of the duty neglected or the correction of the injury done, the court may impose upon such sheriff a fine for the use of the county, not exceeding two hundred dollars: *provided*, that nothing herein shall prevent the person injured from maintaining an action for damages against the sheriff or upon his official bond.

SEC. 98 (172). *Taking illegal fees—penalty.*—No sheriff or other officer shall directly or indirectly ask, demand, or receive for any services or acts by him performed in pursuance of any official duty, any more fees than are allowed by law, under penalty of forfeiting for such offense to the party aggrieved treble the sum so demanded or received, to be recovered in a civil action.

SEC. 99 (173). *Not to become purchaser of property sold by him as sheriff.*—No sheriff shall become the purchaser, or 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; and all such purchases made by any sheriff, or any other person in his behalf, shall be absolutely void.

SEC. 100 (174). *May execute process, after expiration of term of office.*—Every sheriff going out of office by expiration of his term, and having any attachment, execution, or other process in his hands, which he has begun to execute, by a levy upon property, shall be authorized to proceed thereon, and execute the same, and to sell and give title to the property so levied on, in the same manner as if still in office: *provided*, that if such late sheriff dies, becomes insane, removes from the state, or is in any manner unable to act, the sheriff in office shall, upon the delivery

to him of such attachment, execution, or other process, together with a certificate, return, or memorandum of the action of the late sheriff, under the same, if any, complete the execution thereof in the same manner, and with the like effect, as if such process had been originally delivered to him, and give title to any property so levied on by such late sheriff, and the return of such succeeding sheriff upon any such process, or his deed given in pursuance of the execution of any such process, shall be *prima facie* evidence of the disability of the late sheriff to complete the execution of such process or give such deed.

Vide 17 Wis. 403.

SEC. 101 (175). *Shall keep prisoners safely—penalty for neglect.*—The sheriff shall receive and safely keep in prison all persons legally committed thereto, and shall not let out of prison any person so in his custody, unless discharged by due course of law, under penalty of being punished by fine and imprisonment: *provided*, that if there is no jail for the confinement of prisoners in the county, or the jail is insufficient, the sheriff, with the approbation of the judge of the district court, shall employ such means as may be necessary for the safe keeping of all prisoners committed to his custody.

SEC. 102 (176). *May convey prisoner through other counties, when.*—Any sheriff or other officer, who legally arrests any person in any county, may pass across and through such parts of any other counties as he deems necessary to convey the person arrested to the place where he is to be conveyed, according to the command of the process by virtue of which such arrest is made.

SEC. 103 (177). *No sheriff, deputy, or coroner shall draw process, nor give counsel.*—No sheriff, deputy sheriff, or coroner, shall appear or practise as an attorney, solicitor, or counselor, in any court, nor draw or fill up any process, pleading, or proceeding, for any party in any action, nor 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 action or proceeding, nor shall any sheriff or deputy sheriff be eligible to any other civil office, except town or city marshal; and either of said officers for a violation of any of the provisions of this section, shall forfeit a sum not exceeding fifty dollars, to be recovered by the county in a civil action.

SEC. 104 (178). *Shall appoint deputies.*—Every sheriff shall appoint, under his hand and seal, a sufficient number of persons as deputy sheriffs, for whose acts he shall be responsible, and whom he may remove at pleasure. Each deputy shall, before entering on his official duties, take the oath required by law, which oath and appointment shall be filed and recorded in the registry of deeds of the proper county.

Pioneer Printing Co. v. Sanborn, 3 Minn. 413.

SEC. 105 (179). *Shall settle with commissioners, when.*—The sheriff shall settle with and pay over to the board of county commissioners, at their regular sessions, and as often as they require, all money collected or received by him for the use of or belonging to the county.

Armstrong v. Vroman, 11 Minn. 220 (liability of sheriff); *Caldwell et al v. Arnold*, 8 Minn. 265; *Dorr v. Mickley*, 16 Minn. 20; *Davis v. Seymour*, 16 Minn. 210.

TITLE VIII.

OF COUNTY ATTORNEYS.

SEC. 106 (180). *Each county to elect attorney, who shall hold for two years.*—There shall be elected in each county, organized for judicial purposes, a county attorney, who shall hold his office for the term of two years, and until his successor is elected and qualified; such county attorney shall, before he enters upon the duties of his office, take and subscribe the oath required by law, and shall also execute a bond in the penal sum of one thousand dollars, to the board of county commissioners, with one or more sufficient sureties, to be approved by said commissioners, conditioned, that he will faithfully and impartially discharge the duties of county attorney, and pay over without delay, to the county treasurer, all moneys which come into his hands by virtue of his office, which bond, together with his oath of office, shall be deposited in the office of the clerk of the district court of the proper county.

Nourse v. Supervisors of Hennepin Co., 3 Minn. 63.

SEC. 107 (181). *Duties of county attorney.*—The county attorney shall appear in all cases where the county is a party, and prosecute or defend for the county, as the case may be; give opinions and advice to the county commissioners or any other officers of said county, upon request of such commissioners or officers, upon all matters in which the county is or may be interested, or in relation to the official duties of any of said officers; attend on all terms of the district court for such county, and all other courts having criminal jurisdiction, and attend all preliminary examinations of criminals, when the magistrate, before whom such examination is held, shall request his attendance, and furnish him with a copy of the complaint; attend before the grand jury of such county upon the special request of said jury, and examine witnesses in their presence; he shall give them advice in any legal matter before them, and issue subpoenas and process to bring in witnesses before them, or any magistrate before whom he is conducting an examination, and shall attend all coroner's inquests at the request of the coroner, and shall draw all bills of indictment and all presentments found by the grand jury of his county, and shall prosecute all such presentments and indictments to their final determination in the district court. County attorneys, whenever requested by the attorney general, shall appear for the state in their respective counties, in any cause instituted by him, or before the land offices, in any case of application to pre-empt or locate any of the public lands claimed by this state, and assist him in the trial and preparation of any such case.

County Coms. of Hennepin Co. v. Robinson, 16 Minn. 381. *Vide* 22 Wis. 69 (board of commissioners have no authority to employ counsel to assist county attorney).

SEC. 108 (183). *Court may appoint, when.*—Whenever there is no county attorney for the county, or when he is absent at the session of the district court for the county, the court shall appoint, if necessary, by an order to be entered in the minutes of the court, some suitable person to perform for such term of court the duties required by law to be performed by the county attorney; and the person so appointed shall thereupon be vested with all the powers of such county attorney, for that purpose, and 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; which amount shall be deducted from the salary of the county attorney.

SEC. 109 (184). *County attorney shall file account of money received.*—Every county attorney, on or before the first day of January in each year, shall make out and file in the office of the county auditor, an account in writing, under oath, of all moneys received by him during the preceding 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 received such moneys, the particular amount paid by such person, and the cause for which each payment was made, and shall at the same time, or previously, pay over such money to the county treasurer, and take a receipt and duplicate for the same, and file the duplicate with the county auditor.

SEC. 110 (185). *Shall make report to attorney general.*—He shall, on or before the fifteenth day of November of each year, prepare and transmit in such form as the attorney general prescribes, a report of the number, character, and result of all criminal cases prosecuted by him during the current year, together with the cost of each of said prosecutions to the county or state, and the amount of any fines or penalties collected, and if he neglects to do this, he shall forfeit and pay for the use of the county the sum of ten dollars, to be recovered before a justice of the peace in the name of the state, at the instance of the attorney general.

SEC. 111 (186). *Refusing to account—penalty.*—When the county attorney refuses or neglects to account for and pay over the moneys received by him, the county auditor shall cause an action to be instituted upon the bond of such county attorney, for the recovery of the money so received and unpaid by him, and for damages in failing to account.

SEC. 112 (187). *Vacancy, how filled.*—Whenever a vacancy occurs in the office of county attorney, the board of county commissioners at their first session thereafter, shall appoint some suitable person to be county attorney, who shall take the oath and file the bond required of the county attorney, and shall hold his office until the next general election, and until his successor is elected and qualified.

TITLE IX.

OF JUDGES OF PROBATE.

SEC. 113 (188). *Shall give bond and take oath.*—Every judge of probate shall, before he enters upon the duties of his office, execute a bond to the county commissioners in the penal sum of one thousand dollars, with one or more sufficient sureties, to be approved by the said commissioners, 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 shall take the oath required by law, which bond and oath of office shall be filed and recorded in the office of the register of deeds.

SEC. 114 (189). *To have office at county seat and keep records.*—The judge of probate shall keep his office at the county seat, and 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.

SEC. 115 (190). *Shall deliver books, etc., to successor.*—Whenever the term of office of any judge of probate expires, he shall 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 demand by his successor, he shall be liable to indictment and punishment by fine not exceeding one thousand, nor less than one hundred dollars.

SEC. 116 (191). *May appoint clerk.*—Every judge of probate may appoint a clerk, who shall perform all the duties assigned him by law or said judge; such appointment shall be in writing, signed by the judge, and filed in the office of the clerk of the district court of the county in which the same is made.

SEC. 117 (192). *Shall take oath and give bond.*—Before entering upon the duties of his office, such clerk shall take the oath required by law, and execute a bond to the county commissioners, with one or more sureties, to be approved by them, in the penal sum of five hundred dollars, conditioned for the faithful discharge of his duties; said oath and bond shall be filed and recorded in the office of the register of deeds, and an action may be maintained on said bond by any party aggrieved by a violation of the condition thereof.

TITLE X.

OF COURT COMMISSIONERS.

SEC. 118 (193). *Each county shall choose court commissioner.*—There shall be chosen in each organized county one person, who shall be called a court commissioner, and hold his office for the term of three years, and until his successor is elected and qualified.

SEC. 119 (194). *Qualifications and powers.*—Court commissioners shall be men learned in the law; and shall have and may exercise the judicial powers of a judge of the district court at chambers.

Gere v. Weed, 3 Minn. 352; *State of Minn. ex rel Savage v. Hill*, 10 Minn. 63.

SEC. 120 (195). *Shall give bond and take oath.*—Before entering upon his duties each court commissioner shall execute to the board of county commissioners a bond in the sum of two thousand dollars, with surety to be approved by the board, conditioned for the faithful performance of the duties required of him by law, and shall take and subscribe an oath of office, which with his bond shall be filed and recorded in the office of the register of deeds.

SEC. 121 (196). *Shall have office at county seat and keep record of proceedings.*—The court commissioner shall keep his office at the county seat, and keep a record of all proceedings had before him, in books procured at the expense of the county, which books shall be delivered to his successor in office.

SEC. 122 (197). *Same person may be court commissioner and judge of probate.*—Nothing in this title shall prevent the same person from holding at the same time the office of judge of probate and that of court commissioner.

SEC. 123 (198). *Vacancy, how filled.*—Whenever a vacancy occurs in the office of court commissioner, the judge of the district court for the district in which such county is situated, shall appoint some competent person to fill such vacancy, who

shall give such bond and take such oath as is by law required of court commissioners, and who shall hold his office until the next general election, and until his successor is elected and qualified.

TITLE XI.

OF COUNTY SURVEYORS.

SEC. 124 (199). *Surveyor in each county — his term of office — shall take oath and give bond.*—There shall be elected in each county a surveyor, who shall hold his office for two years, and until his successor is elected and qualified; he shall reside in the county for which he is elected, and shall, previous to his entering upon the duties of his office, take and subscribe the oath required by law, and give bond to the board of county commissioners in the sum of five hundred dollars, conditioned for the faithful discharge of his duties.

SEC. 125 (200). *May appoint deputies.*—The said surveyor may appoint such number of deputies as he thinks proper, who shall severally take an oath, for the faithful performance of whose duties he shall be responsible, and by himself or one of his deputies shall execute any survey which may be required by order of any court, or upon application of any individual or corporation.

SEC. 126 (201). *Shall keep record of surveys.*—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, indorsing 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.

SEC. 127 (202). *Rules for surveys.*—In all surveys the courses shall be expressed according 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.

SEC. 128 (203). *Rules for subdividing section.*—Whenever a surveyor is required to make a subdivision of a section, as established by the United States survey, he shall proceed as follows, whether the section is fractional or not, excepting on the northern and western tier of sections of those townships whose northern boundary is a "standard parallel," or "correction line," hereinafter provided for: Commencing at either quarter section corner of the section, he shall run direct lines to the opposite quarter section corner of the section, and at the intersection of said lines he shall establish a common center therefor, at which a post marked " $\frac{1}{4}$ S." on opposite sides, with a suitable instrument, shall be firmly fixed and driven into the ground, and if practicable two bearing trees shall be marked in the same manner, and their course and distance from the said post noted in the plat and field notes. In those townships whose northern boundary is a "standard parallel," or "correction line," but on which no quarter section posts are established for the sections adjoining it on the south by the United States surveyors, the county surveyor, whenever required to subdivide such sections, shall establish a quarter post on such

"standard parallel," or "correction line," equi-distant from the section posts established at the intersection of the parallel by the section lines south; such quarter post to be marked only on the side facing the south, and (when practicable) two bearing trees south of such line marked, and their course and distance from such quarter post duly noted; the subdivision of such sections may then be proceeded with as hereinbefore directed.

Vide 6 Wis. 14, 89, 160; 19 *id.* 429, 454.

SEC. 129 (204, AS AMENDED BY ACT OF MARCH 3, 1870). *Rules for subdividing quarter section.*—Any less subdivision than a quarter section shall be made in the following manner. If the quarter section is not fractional, as follows: Establish a course on the boundaries or lines marking the quarter section to be divided, equi-distant from the adjacent corners of the same, and from such corners run direct lines to the opposite corners, and establish a common center of the quarter section at the intersection thereof. Any subdivision of the fractional north-east and north-west quarter sections on the north boundary, and of the fractional north-west and south-west quarter sections on the west boundary of townships, shall be made by ascertaining the distance by measurement from the quarter section posts to the north and west boundaries respectively, then, as the distance returned in the United States field notes or plats from the quarter section corner, to the north and west boundaries respectively, is to the distance of the same found by measurement, so is the distance returned in such notes or plats as the width of the south half of the north-east quarter and the east half of the north-west quarter and south-west quarter respectively, to the required measurement of the same. All surveys made after the passage of this act by county surveyors or other surveyors shall be made in strict conformity to the original United States government surveys, and to enable surveyors to conform to the requirements of this act, the county commissioners of each county are hereby required to procure and keep on file in the office of the register of deeds certified copies of the original plats and field notes of the United States government surveys in their respective counties.

S. L. 1870, 103. *Vide* 17 Wis. 635 (construction of deed, etc.)

SEC. 130 (205). *To erect new posts.*—If the quarter section or section post, as originally fixed by the United States' survey, is destroyed, the surveyor shall fix a new post on such land as he may be called upon to survey, with similar marks to those placed on like posts by the United States' surveyors, graved therein; said posts to be fixed in accordance with the government field notes.

Compare with Sec. 132.

SEC. 131 (206). *Vacancy, how filled.*—Whenever a vacancy occurs in the office of county surveyor, the board of county commissioners, at their first session thereafter, shall appoint some suitable person to fill such vacancy until the next general election, and until a successor is elected and qualified.

SEC. 132 (ACT OF MARCH 6, 1871). *Section posts if destroyed to be replaced—of what material—dimensions—duties and compensation of surveyor.*—Wherever it shall be made to appear to the satisfaction of the board of county commissioners of any county, at any regular or special meeting, that the section posts or monuments as established by the United States have been destroyed, and that to re-locate and re-establish the same will require a survey of more than two sections adjoining, the said county commissioners may, in their discretion, authorize and direct a compe-

tent surveyor of the county to re-survey, re-locate, and re-establish such section posts or monuments so lost and destroyed, by having permanently placed at such section corners, when practicable, an iron or stone post or monument, which shall not be less than three feet long, and imbedded in the soil at least two feet, which post or monument, if stone, shall contain at least seven hundred and twenty cubic inches, and if iron shall be at least one and one-half inches square, in the manner provided in section one hundred and twenty-nine (two hundred and five of title eleven) of chapter eleven (eight) of the general statutes; and such surveyor shall be paid for such services out of the general fund of the county. And in making such survey the said surveyor shall keep full and accurate notes thereof, and shall file a certified copy of the same in the office of the county auditor.

S. L. 1871, 70.

TITLE XII.

OF CORONERS.

SEC. 133 (207). *Coroner in each county—term of office—shall give bond and take oath.*—A coroner shall be elected in each organized county for the term of two years and until his successor is elected and qualified, who shall before he enters upon the duties of his office, give bond to the board of 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 said board directs and approves, 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 take the oath required by law; which bond and oath shall be filed and recorded in the office of register of deeds.

17 Wis. 401.

SEC. 134 (208). *To exercise powers and duties of sheriff, when.*—When there is a vacancy in the office of sheriff the coroner shall exercise the powers and duties of said office until a sheriff is elected and qualified; and when the sheriff for any cause is committed to the jail of his county, said coroner shall be keeper thereof during the time the sheriff remains a prisoner therein.

SEC. 135 (209). *To be subject to liabilities of sheriff, when.*—Whenever the coroner executes the office of sheriff, he shall perform all the duties, and be subject to all liabilities and penalties imposed by law upon a sheriff duly elected and qualified.

SEC. 136 (210). *Shall execute process when sheriff is a party.*—Every coroner shall serve and execute process of every kind, and perform all other duties of the sheriff, when the sheriff is a party in the action, or whenever affidavit is 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.

SEC. 137 (211). *Process to be directed to coroner, when.*—Whenever any party, his agent or attorney, makes and files with the clerk of the district court, an affidavit, stating that he believes the sheriff of such county will not, by reason

of the state of Minnesota to attend in a criminal action before a justice of the peace.

SEC. 143° (217). *Oath of witnesses.*—An oath to the following effect shall be administered to the witnesses by the coroner :

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

SEC. 144 (218). *Testimony to be reduced to writing.*—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 shall be subscribed by the witnesses respectively.

SEC. 145 (219). *Duty of jury.*—The jury, upon inspection of the dead body, and after hearing the testimony, and making the 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 appears that his death was caused by criminal violence, 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 :

State 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 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 state of Minnesota, 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.

SEC. 146 (220). *Witnesses may be bound over.*—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, and all recognizances and examinations by him taken, and may commit to the jail of the county any witnesses who refuse to recognize in such manner as he shall direct.

SEC. 147 (221). *Person charged may be arrested.*—If any person, charged by the inquest, with having committed such offense is not 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.

SEC. 148 (222). *Coroner to provide burial in certain cases.*—When any coroner takes an inquest upon view of the dead body of any person unknown, 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 is found.

SEC. 149 (223). *May appoint deputies.*—Every coroner is authorized and required to appoint one or more deputy coroners, who shall, in the absence or inability to act of the coroner, possess the same powers and be subject to the same liabilities as coroners. Each deputy shall be appointed in writing, and before entering upon the duties of his office, shall take and subscribe the oath required by law, and give bond to the board of county commissioners with sureties to be approved by said board, in such sum, not less than five hundred dollars, nor more than five thousand dollars, as said board directs, conditioned for the faithful performance of his official duties, which bond, oath, and appointment shall be filed and recorded in the office of register of deeds.

SEC. 150 (224, AS AMENDED BY ACT OF MARCH 6, 1871). *Vacancy in office, how filled.*—Each deputy shall act in his own name as deputy coroner, and hold his office during the pleasure of the coroner, and whenever a vacancy occurs in the office of coroner, the board of county commissioners, at their first session thereafter, shall appoint some suitable person to fill such vacancy until the next general election, and until a successor is elected and qualified.

S. L. 1871, 156.

TITLE XIII.

OF CLERK OF DISTRICT COURT.

SEC. 151 (225). *Clerk shall give bond and take oath.*—Every clerk of the district court, before entering on the duties of his office, shall execute a bond to the board of county commissioners, with two or more sureties approved by said board in the penal sum of one thousand dollars, conditioned for the faithful discharge of his official duties, and take and subscribe the oath required by law; which oath and bond shall be filed and recorded in the office of the register of deeds.

SEC. 152 (226). *Where to keep office—duties.*—Every clerk shall keep his office at the county seat and perform all duties which are or may be assigned him by law, and by the rules of the court of which he is clerk.

SEC. 153 (227, AS AMENDED BY ACT OF MARCH 7, 1870). *Clerk may appoint deputy.*—He may at his discretion, with the approval of the judge of his court, appoint a deputy clerk, for whose acts he shall be responsible. Said deputy shall be appointed under the hand and official seal of the clerk, with the approval of the judge endorsed on such appointment; and the deputy appointed under and in pursuance of the provisions of this section, may administer oaths, take acknowledgments, and perform all the duties pertaining to the office of clerk of the district courts.

S. L. 1870, 99.

SEC. 154 (228). *Deputy shall take oath and give bond.*—Before any deputy clerk of the district court shall enter upon the duties of his office, he shall take and subscribe the oath required by law, which oath, together with the appointment of such deputy clerk, shall be filed and recorded in the office of the register of deeds; such deputy may be removed at the pleasure of the clerk.

SEC. 155 (229). *Books to be kept by clerk.*—Every clerk shall procure at the expense of his county and keep the following books :

First. A register of actions, in which he shall enter the title of each action, a minute of each paper filed in the cause, and of all proceedings therein.

Second. A judgment book, in which shall be entered the judgment in each action.

Third. A docket, in which he shall enter, alphabetically, the name of each party to the judgment, the amount of the judgment, and the precise time of his entry.

SEC. 156 (230). *Vacancy, how filled.*—Whenever any vacancy occurs in the office of clerk of the district court, the judge of the district court for the district in which such county is situate, shall appoint some suitable person to fill such vacancy, who shall give such bond and take such oath as is by law required of clerks of the district court, and who shall hold his office until the next general election, and until his successor is elected and qualified.

TITLE XIV.

SALARIES AND FEES OF COUNTY OFFICERS.

SEC. 157 (92, AS AMENDED BY ACT OF MARCH 10, 1873). *Of county commissioners.*—The county commissioners shall each receive three dollars per day for each day they are necessarily employed in transacting the county business, and six cents per mile for every mile travelled in going to and returning from the meeting of the county board in the discharge of any official duty, computed by the nearest travelled route, but no county commissioner shall receive pay for more than twenty days in any one year, or be entitled to travelling fees for attendance on more than six sessions in any one year.

S. L. 1873, 164.

SEC. 158 (124, AS AMENDED BY ACT OF MARCH 4, 1871). *Of county auditor.*—The salary of the county auditor shall be regulated by the value of the taxable property in their respective counties, as fixed by the state board of equalization for the preceding year, as follows: In counties where the amount of taxable property does not exceed the sum of one and one half million dollars, they shall be entitled to receive six mills on each dollar of the first one hundred thousand dollars, and one mill on each dollar of all amounts in excess of said last-named sum, and less than two hundred thousand dollars, one-third of one mill on each dollar on all amounts in excess of said last-named sum: In counties where the value of the taxable property for the preceding year as fixed by the said board of equalization exceeds the sum of one and one half million dollars, the county auditor shall be entitled to receive five mills on each dollar of the first one hundred thousand dollars, one half of one mill on all amounts in excess of said sum, and less than two million dollars, and one-fifth of one mill on each dollar of all sums in excess thereof. In all counties where the valuation of the taxable property amounts to or exceeds eight hundred thousand dollars, the county auditor shall be allowed for clerk hire one-half of one mill on each dollar of such amount of taxable property not exceeding one million dollars; on all amounts in excess of said sum of one million dollars,

and less than two million dollars, one-third of one mill on each dollar; on all amounts in excess of two million dollars and less than three million dollars, one-sixth of one mill on each dollar; on all amounts in excess of three million dollars, and less than five million dollars, one-tenth of one mill on each dollar; and on all sums in excess of five million dollars, one-twentieth of one mill on each dollar: *provided*, that no county auditor shall receive more than twenty-five hundred dollars per annum for his personal services, nor less than one hundred dollars.

S. L. 1871, 153.

SEC. 159 (150, AS AMENDED BY ACT OF MARCH 8, 1873). *Of county treasurer.*—The county treasurer shall be allowed, at the time of his settlement, all sums paid by him for printing such advertisements as he is required to publish, at the rates prescribed by law, and all the sums paid by him for blank books and stationery necessarily used in his office, and shall receive for his services one-half of one per cent. as fees for receiving and disbursing all moneys on account of sales of school lands or the payment of interest on school lands, and on all other moneys by him collected or received as such county treasurer for each year's fees as follows: six cents on each dollar for the first ten thousand dollars, three cents on each dollar for the second ten thousand dollars, and two cents on each dollar on all sums over twenty thousand dollars and less than sixty thousand dollars, and one per cent. on each dollar on all sums over sixty thousand dollars, to be paid on the warrant of the county auditor out of the revenue fund of the county; *provided*, that no compensation shall be allowed to the treasurer on any moneys received from his predecessor in office or his legal representatives, or on any moneys received from the current school fund of the state apportioned by the superintendent of public instruction: *provided further*, that no treasurer shall receive more than thirty-five hundred dollars for his services in any one year: *provided, however*, that nothing herein-contained shall affect the salary of the treasurer of Ramsey county, as now provided by law, but in all other respects said county shall be subject to the provisions of this act.

S. L. 1873, 159. *Vide also* S. L. 1870, 98, and S. L. 1871, 151. By a special act of the legislature of 1872 (Special Laws, 1872, 586) the compensation of the officers of Ramsey Co. was provided for in another way.

SEC. 160 (3, CHAP. 7, AS AMENDED BY ACT OF FEBRUARY 28, 1870). *Of county attorney.*—The county attorney shall receive a salary of not exceeding twelve hundred dollars per annum, to be fixed by the board of county commissioners, and paid quarterly from the treasury of the county, upon the warrant of the county auditor: *provided*, that any county attorney feeling himself aggrieved by the act of the county commissioners in fixing such salary, may appeal to the district court of the proper county, by filing with the county auditor thereof a notice of such appeal, within thirty days after such salary shall have been so fixed by such board of commissioners, or in case the same shall have been so fixed at any time prior to the passage of this act; then within thirty days from the passage thereof. And the judge of said court, upon such appeal being taken as aforesaid, shall, either in term time or in vacation, upon the application of such county attorney, eight days notice thereof being given to the chairman of such board of commissioners or to the county auditor, proceed to determine such appeal in a summary manner, and shall allow such sum for such salary as he shall deem just and reasonable (not exceeding twelve hundred dollars per annum), and shall make,

an order therefor, to be filed in the office of the county auditor, and the amount so determined upon shall be the salary of such county attorney from the time of the fixing of the salary by such county commissioners, from which such appeal was taken, to the end of the term for which such salary was so fixed, and for which such county attorney was elected, unless altered or changed by such court or judge for good cause shown.

S. L. 1870, 93.

SEC. 161 (182, CHAP. 8). *Shall receive no fee, when.*—No county 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 is his duty to attend.

SEC. 162 (ACT OF FEB. 14, 1867). *Of county surveyor.*—The county surveyors of the several counties of this state shall be entitled to receive four dollars per day as compensation for their services for each day employed in the discharge of their duties as such surveyors, including the time necessarily spent in travelling to and from the field of their labor.

S. L. 1867, 141.

SEC. 163 (ACT OF MARCH 6, 1868, AMENDING CHAP. 22; LAWS OF 1866). *Of clerks of district court.*—In all counties where the fees of the clerk of the district court do not exceed five hundred dollars per annum, the said clerk shall receive from the county treasurer of his county, unless prohibited by the county commissioners of said county, a sum which, together with the fees of his office, shall be equal to five hundred dollars per annum: *provided*, the population of such county exceeds forty-five hundred, as shown by the census.

S. L. 1868, 138. For fees and compensation of other county officers *vide* Part III. chap. LIII.

SEC. 164 (ACT OF MARCH 10, 1873). *Certain county officers to report amount of fees.*—It is hereby made the duty of the clerk of any court, probate judge, sheriff, and register of deeds of the several counties in this state, to report to the county commissioners of their respective counties on the first day of January of each year during their official term, a certified and sworn statement in detail of all the costs, fees, percentages, penalties, allowances, or other perquisites of every kind charged in his office during the preceding year.

SUB-DIV. 2. If any of said officers shall, with intent to violate this act, fail to furnish the statement herein required at the time and in the manner herein specified, or if any of said officers shall wilfully make any such statement false in any material matter, knowing the same to be so, he shall, upon conviction in the court of common pleas or district court of such county, be adjudged of misconduct in office, and shall be condemned to pay a fine of not less than three hundred dollars, nor more than one thousand dollars.

SUB-DIV. 3. It shall be the duty of the county commissioners of the several counties in this state, to publish in the official paper of the county, during the first week of January in each year, the aggregate amount received by each of said officers according to their sworn statements, as required by section one of this act.

S. L. 1873, 161.