

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.*

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CHICAGO  
CALLAGHAN AND COMPANY

1873

## CHAPTER XXVIII.

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## TITLE I.

## OF THE RELIEF AND SUPPORT OF THE POOR.

(This Title is Chapter XV. of the Statutes of 1866.)

SECTION 1. *Poor persons, who shall support.*—Every poor person who is unable to earn a livelihood in consequence of bodily infirmity, idiocy, lunacy, or other cause, shall be supported by the father, grandfather, mother, grandmother,

children, grandchildren, brothers, or sisters of such poor person, if they or either of them is of sufficient ability, and every person who fails or refuses to support his father, grandfather, mother, grandmother, child or grandchild, sister or brother, when directed by the board of commissioners of the county where such poor person is found, whether such relative resides in the county or not, shall forfeit and pay to the county commissioners for the use of the poor of their county, the sum of fifteen dollars per month, to be recovered in the name of the county commissioners, for the use of the poor as aforesaid, before any justice of the peace or any court having jurisdiction: *provided*, that when any person becomes a pauper from intemperance or other bad conduct, he shall not be entitled to any support from any relation except parent or child.

SEC. 2. *Relatives, in what order liable for support.*—The children shall be first called on to support their parents, if there are children of sufficient ability; if there are none of sufficient ability, the parents of such poor person shall be next called on, and if there are no parents or children of sufficient ability, the brothers and sisters shall be next called on; and if there are no brothers or sisters, the grandchildren of such poor persons shall be called on, and then the grandparents; but married females, whilst their husbands live, shall not be liable to an action.

SEC. 3. *When county shall support.*—When any such poor person does not have any such relatives in any county in this state as are named in the preceding sections, or such relatives are not of sufficient ability, or fail or refuse to maintain such pauper, then the said pauper shall receive such relief as the case may require, out of the county treasury, and the maintenance and relief of all such poor persons shall be a county charge, and shall be borne by the county in which such poor person, at the time of applying for support or relief, has a legal residence and settlement, and be paid out of the treasury thereof in the manner hereinafter provided.

SEC. 4. *Legal residence, what constitutes.*—Any person, other than those hereinafter provided for, who has resided in any county in this state one year continuously, shall, for the purposes of this title (chapter), be deemed to have gained a legal residence and settlement in such county. Every indentured servant or apprentice legally brought into this state, shall obtain a legal settlement in the county in which such servant or apprentice serves his master one year; and every married woman, during coverture, shall be considered legally settled in the county where her husband was last legally settled; but if she had no legal settlement, she shall be considered as settled in the place where she was last legally settled before marriage; and every minor who has not been emancipated from his parents and gained a legal settlement in his own right, shall be considered as settled in the place where his parents or surviving parent was last legally settled.

18 Wis. 624.

SEC. 5. *County commissioners to be superintendents of the poor.*—The county commissioners shall, by virtue of their office, be superintendents of the poor of their respective counties; and the commissioners of each county shall take charge of the poor supported at public expense therein, and have the management of any poor-house, farm, work-house, or other place provided for the accommodation, support, or employment of the poor therein.

SEC. 6. *Their powers and duties.*—The county commissioners shall provide, and at all times keep provided, by purchase, lease, or otherwise, a suitable place for

the reception, proper accommodation, and maintenance of all poor persons for whose maintenance such county may from time to time become chargeable, according to the provisions of this title (chapter), and for that purpose the board of county commissioners at any regular meeting thereof, by resolution, may provide for the purchase or lease of any such farm, lot, or tract of land and buildings within their county, as said board may deem necessary and proper for the accommodation and support of the poor of such county, upon such terms as to time and manner of payment or otherwise as said board may deem most advantageous to the county, and in accordance with such resolution may negotiate for and purchase any such farm, lot, or tract of land and buildings, and contract for, and procure the erection of buildings thereupon; and the board may in its discretion establish and maintain in their county a poor farm or work-house or both, for the employment of such poor persons supported by such county, as may be able to perform manual labor, and the expense and cost of providing such farm, lot, or tract of land and buildings, shall be defrayed by a special tax upon the taxable property in such county, to be assessed, levied, collected, and paid over in the same manner as other county taxes: *provided*, that if in the opinion of the county commissioners, the number of poor persons in the county is not sufficiently large to warrant the purchase or rental of a farm or place for the maintenance of the poor of the county, they may provide for their support in any other way which they may deem proper.

SEC. 7. *Shall appoint overseer of poor.*—Whenever a place is provided in any county for the reception and accommodation of the poor, according to section six of this chapter, and once in each year thereafter, and as often as a vacancy occurs in such office, the board of county commissioners of such county shall appoint a suitable person, resident of said county, overseer of the poor of said county, to perform the duties and exercise the authority specified in section nine of this chapter; the term of appointment of such overseer shall be one year, and until his successor in office is duly appointed and qualified, unless sooner removed by the board of county commissioners; he shall be liable to be removed by said board at any time; and his compensation shall be fixed by said board annually.

SEC. 8. *Overseer shall file bond.*—Every person appointed overseer of the poor shall, before he enters upon the duties of such office, make and file with the treasurer of said county, a bond, with two or more good and sufficient sureties, to be approved by said board of county commissioners, in such sum as the said board directs, payable to the county treasurer of said county, conditioned for the due and faithful performance of the duties of said office during his continuance therein; and said board may require an additional bond whenever the former bond is deemed insecure. Upon default in the condition of any such bond, the amount thereof shall be recoverable by and in the name of the county treasurer of said county, for the benefit of the poor fund of said county.

SEC. 9. *His powers and duties.*—Every overseer of the poor, after qualifying as aforesaid, shall take and have the immediate charge, superintendence, management, and control of all poor persons supported and maintained by said county, and any farm or lot of land, work-house and other buildings and property, purchased, leased, erected, or provided by the board of county commissioners, and used for the reception, accommodation, and support or employment of the poor in said county, subject to the general authority, supervision, and direction of the board of county commissioners of the county, or a committee thereof, appointed for the purposes of

such general supervision. He shall keep a record of the names, ages, residence, and condition of all persons received under his charge in pursuance of this title (chapter), and the date of each person's reception and discharge, and of all deaths and births of poor persons under his charge, and he shall keep a full and accurate account of all moneys and other property received and disbursed by him in the administration of his said office, and shall settle his official accounts with the said board of county commissioners at least once in each year, at such time as said board appoints, and at the expiration of his term of office, and shall therein account to said board for all moneys and other property so received by him, and the manner they have been expended, and for any balance remaining unexpended. He shall annually and at the expiration of his term of office, and at other times when required by the board of county commissioners, render to said board a full and accurate report of the amount, kinds, and condition of all property under his care, by virtue of his said office, the number, names, ages, and condition of all persons remaining under his charge at the date of said report, or who have been under his charge during the time covered by said report, by virtue of his said office, the length of time each person has received support through him, the amount of the proceeds of any land and work-house under his supervision as such overseer, and of the proceeds of the labor or employment of any such poor persons received by him in money or otherwise, and the manner of the employment of such persons, the amount and items of all expenditures made by him in the administration of said office, and such other facts and information as the said board require, and the records and accounts kept by him as aforesaid, shall at all times be open to the inspection of the board of county commissioners of the county, and of any member of said board.

SEC. 10. *Physician to be appointed—his duties.*—The board of county commissioners shall appoint some suitable and competent practising physician to be physician of the poor of said county, whose duty it shall be, upon direction of any county commissioner or the overseer of the poor of said county, to attend upon and prescribe for all sick poor persons requiring medical aid, in charge of such overseer of the poor by proper authority, and also upon the written direction of any county commissioner of said county, to attend upon and prescribe for all sick poor persons in said county requiring medical aid, who are at the time receiving or entitled to receive support or relief from said county according to the provisions of this title (chapter). Such physician, upon acceptance of such appointment, shall continue therein during the pleasure of the board of county commissioners, unless he sooner resigns the same, and he may be removed by said board at any time; and he shall receive such compensation for his services as shall from time to time be determined by said board.

SEC. 11. *Overseer shall receive poor persons, when.*—All persons shall be received and taken in charge by the overseer of the poor of any county, and provided by him with suitable support at the place provided in said county for that purpose, upon the written order of the board of county commissioners of said county, or of the county commissioners of the district in said county in which such persons reside at the time such order is made, and not otherwise, but the board may at any time discharge any person so received and receiving support from said county, when satisfied that such person is not legally chargeable upon such county.

SEC. 12. *Single commissioner may act in certain cases.*—Whenever application is made to a county commissioner by or on behalf of any person in his district, for

public relief or support, and reliable information is furnished that such person is in a suffering condition from poverty, and requires public assistance or support, said commissioner shall inquire into the condition and necessities of such person, and if satisfied that such person is in actual need of, and is a proper subject for public relief or support, and is legally settled in said county, or has no legal settlement in this state, said commissioner shall make an order in writing, signed by him officially, directed to the overseer of the poor of said county, that such person be received into the charge of the overseer of the poor, and furnished suitable support, which order shall contain or be accompanied by a statement of facts signed by such commissioner, setting forth the name, age, former occupation, place of residence, and length of residence in said county if a resident thereof, and the condition of such person; and said overseer shall, upon delivery to him of such order and presentation of such poor person, receive said poor person into his charge, and provide him with support at the expense of said county, until the further order of the board of county commissioner: *provided*, that if the commissioner to whom such application is made shall, upon such inquiry, be of opinion that only temporary and limited assistance, to the extent hereinafter specified, will be required by such person, and that it will be for the interest of the county to grant the same, he may, instead of making the order aforesaid, allow such person relief to the amount that he deems expedient, not exceeding the sum of twenty dollars to any one person or family, and shall thereupon make a written certificate of such allowance, signed by him officially, in which he shall specify the sum allowed, and the name and residence of the person to whom it is granted, and upon presentation of such certificate at the office of the county auditor of said county, such person shall be entitled to receive an order, duly signed and sealed, upon the treasurer of said county, for the amount specified therein, to be paid out of the fund appropriated to the support and relief of the poor; but no county commissioner shall be authorized to grant such temporary relief to any one person or family to exceed the sum of twenty dollars, except by permission of the board of county commissioners of the county. In case such commissioner deems it unsafe to entrust such poor person with the expenditure of such sum of money, he may present his said certificate and receive such order, and draw the money thereupon, and expend the same, or so much thereof, as may be necessary for the use of, and in such a way as will be most beneficial to such poor person, accounting to the board for the manner of expending the same, and for any balance not so expended.

SEC. 13. *May make order to sheriff, when.*—Whenever any county commissioner, or board of county commissioners, makes an order for any person to be received into the charge of the overseer of the poor, and supported as hereinbefore provided, who is unable, by reason of sickness, infirmity, or otherwise, to proceed to the place provided for the reception of the poor in said county, without conveyance at public expense, said board or commissioner may, in writing, direct the sheriff, or any constable of said county, convenient to the place where such poor person may be, to take and convey him to the place provided in said county for the reception of the poor; and such direction and the order aforesaid shall be sufficient authority to said sheriff or constable to take and convey such poor person to the place aforesaid, and he shall be entitled to reasonable compensation for the necessary time and expense of so doing, to be allowed by said board, and paid out of the county treasury.

SEC. 14. *Shall cause persons to leave county, when.*—Whenever application for public support or relief is made to any county commissioner by any person who has not a legal settlement in the county in which such application is made, but who has a legal settlement in some other county in this state at the time of making such application, the board, or chairman thereof, shall warn such person to depart from said county, and if such person is unable or refuses so to depart within a reasonable time after being so warned, and he is likely to become chargeable upon the public for support, the chairman of the board of county commissioners may issue an order under his hand and the seal of said board, directed to the sheriff, or any constable of the same county, and requiring him to take such person and convey him to the county in which he has a legal settlement, and the sheriff or constable to whom the same is delivered, shall take such person and convey him to the county designated in said order. The reasonable expense of such removal shall be allowed and paid to such officer out of the treasury of the county from which such person is conveyed, and the amount of such expense shall be a legal and valid claim in favor of such county against the county in which such person has a legal settlement, and shall be allowed and paid by the board of county commissioners thereof.

SEC. 15. *Sick persons, how supported.*—In case application for support or relief is made to a commissioner, or the board of county commissioners, by or on behalf of any person in said county whose legal settlement at the time is in another county in this state, and who is so sick, infirm, or otherwise disabled as to render it unsafe or inhuman to remove him, as provided in the preceding section, and who is in actual and immediate need of public relief or support, such commissioner or the board to whom such application is made, shall make an order or grant relief, in the same manner and to the same effect, and like proceedings shall be thereupon had, as are provided for in sections twelve and thirteen of this title (chapter), and the amount of all proper expenditures and disbursements made by such county, in and about the support and relief of any such sick and infirm person, shall constitute a valid legal claim in favor of such county against the county in which such person has a legal settlement, and shall be allowed and paid by the board of county commissioners thereof.

SEC. 16. *Minors may be apprenticed.*—When any minor becomes chargeable upon any county for support, the board of county commissioners of said county shall bind such minor as an apprentice to some respectable person, a householder of said county, if such person can be found who will take such minor, by written indenture, of the same tenor and effect as required by the title (chapter) of these statutes relating to masters and servants, and which shall be binding upon such minor as therein provided.

SEC. 17. *Poor person dying, to be buried at the expense of the county.*—When any person dies in any county, leaving insufficient money and effects to defray the necessary expenses of his burial, and leaving no relations therein of sufficient ability to procure his burial, the county commissioner of the district in which such person dies shall procure a decent burial of the remains of such deceased person at the expense of the county.

SEC. 18. *Penalty for illegally bringing poor persons into county.*—Any person who sends, carries, transports, removes, or brings, or who causes to be sent, carried, transported, brought, or removed, any insane, idiotic, poor, or indigent person, from without this state, to any county in this state, without legal authority, and there leaves or causes to be left such insane, idiotic, poor, or indigent person, with intent



to make such county to which such removal is made, chargeable with the support or relief of such insane, idiotic, poor, or indigent person, or who induces any such last-described person so to remove, with like intent, shall forfeit the sum of fifty dollars, to be recovered by the treasurer of the county into which such removal is made, for the support of the poor therein; and shall moreover be guilty of a misdemeanor, and on conviction shall be fined not exceeding one hundred dollars, or imprisoned in the county jail not exceeding three months, or both, in the discretion of the court.

SEC. 19. *County commissioners to assess poor tax.*—The board of county commissioners of each county shall, at the time of fixing and levying the amount of county tax to be raised and collected in said county in each year, assess, levy, and cause to be collected, in the same manner and at the same time that other county taxes are assessed, levied, and collected therein, an amount of tax, over and above all other county taxes, sufficient to meet and defray the estimated expense of supporting and relieving the poor therein according to the provisions of this title (chapter), during the succeeding year, and to supply and make up any deficiency of the fund raised for such purpose during the preceding year to meet the actual expenditures made by the county during the preceding year for the support and relief of the poor.

## TITLE II.

### OF INTOXICATING LIQUORS.\*

(This Title is Chapter XVI. of the Statutes of 1866.)

SEC. 20 (1, AS AMENDED BY ACT OF MARCH 3, 1870). *County commissioners may grant licenses, when.*—The board of county commissioners may grant licenses for the sale of any quantity of spiritous, vinous, or fermented and malt liquors within their proper counties, to any person of the age of twenty-one or more years, upon his complying with the conditions of the next section: *provided*, that nothing herein shall be so construed as to prevent the people of any municipal township from deciding for themselves whether licenses shall be granted to any person or persons in said township; and the town clerk is hereby required, on the petition of ten or more legal voters of said township, at any time not less than twenty days before any regular election, to give notice that the question of license will be submitted at said election, which question shall be determined by ballots containing words "in favor of license," or "against license" (as the case may be), which vote shall be canvassed and returned as is by law prescribed for canvassing election returns, and if such returns show that a majority of the votes cast at such election shall be against license, then it shall be the duty of the town clerk to notify the

\* *Vide* S. L. 1866, 84; 1871, 101. It is sufficient to allege in the complaint or indictment that the defendant sold without license, and it is not necessary to allege that he received compensation, 21 Wis. 274. It is no defense that the defendant applied for a license and was refused one, *ibid.*; 4 E. D. Smith, 142; 2 John. cases, 346; 14 How. Pr. 268. The complaint may allege conjunctively that the defendant did sell, vend, deal, and traffic in, and give away spiritous, ardent, and intoxicating liquors (specifying them) in quantities less than one gallon, 21 Wis. 204. The complaint need not specify the person to whom the liquor was sold, *ibid.* Fermented beer is intoxicating liquor within the meaning of the act, 3 Denio, 43, 437; 17 How. Pr. 442; 20 Barb. 246, *contra*.

county auditor thereof, and in such case the board of county commissioners shall grant no license in said township.

S. L. 1870, 92.

SEC. 21 (2, AS AMENDED BY ACT OF MARCH 4, 1872). *Fee for license—bond to be given.*—Any person applying for license to sell intoxicating liquors, shall, before the same is issued, pay to the county treasurer of the proper county a sum not greater than one hundred dollars, nor less than twenty-five dollars per annum, at the discretion of the board of county commissioners, and shall file with the clerk thereof a bond with two or more sureties to be approved by the board, in the penal sum of five hundred dollars, conditioned, that the said person so licensed will not sell or otherwise dispose of spiritous, intoxicating, or malt liquors (as the case may be), at any place other than the building or town for which said person is licensed, nor on the Sabbath, nor on any general or special election day, and that he will keep a quiet and orderly house, and not permit gambling with cards, or any other device for money or the representative of money, in the house or place of business of such person, and will not sell, barter, furnish, nor give away such liquors to any minor person, pupil, or student in any public school, academy, seminary, or other institution of learning, nor to any intemperate person or habitual drunkard.

S. L. 1872, 127.

SEC. 22 (3, AS AMENDED BY ACT OF MARCH 4, 1872). *License may be revoked, and become void, when.*—The board of county commissioners may revoke any license granted under the provisions of this title (chapter), whenever they deem it proper, and every license granted by any board of commissioners shall cease to be in force from and after any violation of any of the conditions of the bond required by this title (chapter) is proved before any court having competent jurisdiction, and thereafter the person who has so violated the conditions of the said bond, shall be liable to all the penalties imposed on persons selling liquors without license, and shall be further liable for all damages done by persons intoxicated by liquors obtained from him, and the sureties on said bond shall be jointly and severally liable with the principal for the payment of said damages, to be recovered in a civil action.

S. L. 1872, 127.

SEC. 23 (4, AS AMENDED BY ACT OF MARCH 9, 1867). *Selling liquor without license—penalty.*—Whoever sells or barter any spiritous, vinous, fermented, or malt liquors in a less quantity than five gallons, without first having obtained license therefor, agreeably to the provisions of this title (chapter), or disposes of any spiritous, vinous, fermented, or malt liquors, under any pretext, or in any manner, shall be deemed guilty of a misdemeanor, and shall, upon conviction thereof in any court having jurisdiction of the same, be fined for every such offense in any sum not exceeding one hundred dollars, nor less than twenty-five dollars, for the use of common schools in the county where the offense is committed, and upon default of the payment of such fine, he shall be committed to the county jail for a term not exceeding sixty days, or until such fine is paid.

S. L. 1867, 148.

SEC. 24 (5). *County officers to make complaint.*—County attorneys, sheriffs, and constables, having knowledge of any violation of the provisions of this title (chapter), shall make complaint thereof to a justice of the peace of the proper county. The

county attorney shall also prosecute the bond given by such applicant for any violation of its conditions.

SEC. 25 (6). *Violation of official duty—penalty.*—If any judge, sheriff, justice of the peace, constable, or other officer willfully neglects or refuses to perform any duty required of him by this title (chapter), he shall be deemed guilty of a malfeasance in office, and shall thereafter be disqualified for holding the same for and during the remainder of the term for which he was elected, and shall be liable on his bond in any amount not exceeding five hundred dollars, nor less than one hundred dollars, recoverable in any court having jurisdiction.

SEC. 26 (7). *Sureties on bond to justify, or county commissioners held individually liable.*—When any action is brought and judgment rendered against the principal and sureties upon such bond, and property cannot be found to satisfy said judgment, the board of county commissioners who approved said bond shall be held individually liable for said judgment, unless the sureties on said bond testified before some judge of the district court, or justice of the peace, that at the time of joining in said bond by them, they were worth double the amount mentioned therein, above all debts and liabilities incurred by them, and exclusive of property exempt from execution.

SEC. 27 (8). *Clerk to keep list of persons licensed.*—The clerk of the board of county commissioners of each county shall make and keep in his office an accurate list of all persons holding licenses under the provisions of this title (chapter), within his county, which list shall show the date of and the amount paid for each of said licenses respectively, and shall be open to the inspection of any resident of said county, without charge or expense.

SEC. 28 (9). *Jurisdiction of justices.*—Justices of the peace shall have original jurisdiction in all actions arising under the provisions of this title (chapter), or on the bond aforesaid, when the amount sued for does not exceed one hundred dollars.

SEC. 29 (10). *Persons furnishing liquor to minors after notice not to do so, how liable.*—Any parent, master, or guardian having minors, minor servants or wards in charge, may give a distinct written notice to any tavern keeper, inn keeper, merchant, grocer, saloon keeper, distiller, brewer, or any other person having or keeping intoxicating liquors, forbidding him from directly or indirectly furnishing such minors, minor servants, or wards with intoxicating liquors, and if within one year after such notice any one to whom such notice is given furnishes directly or indirectly, or causes to be furnished, intoxicating liquors to such minors, minor servants, or wards, he shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished by fine, not less than ten nor more than fifty dollars, or by imprisonment in the county jail not less than ten nor more than fifty days for each offense.

SEC. 30 (11, AS AMENDED BY ACT OF MARCH 4, 1872). *Same in case of students, habitual drunkards, etc.*—It shall be unlawful for any person to sell, give, barter, furnish, or dispose of in any manner, either directly or indirectly, any spiritous, vinous, fermented, or malt liquors, in any quantity whatsoever to any minor person, pupil, or student in any public school, seminary, academy, or other institution of learning within this state, or to any intemperate person or habitual drunkard. And any person violating any of the provisions of this section shall be guilty of a misdemeanor, and on conviction thereof by any court having jurisdiction shall be punished by fine of not less than fifty nor more than one hundred

dollars, or by imprisonment in the county jail not less than thirty nor more than ninety days, or until such fine is paid; and if any person so convicted holds a license for the sale of such liquors, said license from and after the date of such conviction shall be null and void, in addition to the penalties hereinbefore provided, and no license granted in accordance with the provisions of this title (chapter), or the provisions of any city or village charter, ordinance, or by-law, shall be construed so as to authorize the sale of any of the liquors aforesaid to the classes of persons named in this section.

S. L. 1872, 127.

SEC. 31 (12). *Penalty doubled after first conviction.*—Upon the second and each subsequent conviction of any violation of the two preceding sections, the penalties aforesaid shall be doubled.

SEC. 32 (13). *Selling liquor to Indians—penalty.*—Whoever sells, exchanges, gives, barter, or disposes of any spiritous liquors, or wines, to any Indians within this state, shall, on conviction thereof, be punished by imprisonment in the state prison for a period not exceeding two years, and be fined not more than three hundred dollars; and in all cases arising under this section, Indians shall be competent witnesses.

SEC. 33 (14). *County officers to make complaint.*—Sheriffs, constables, and justices of the peace are, under penalty of forfeiting their respective offices, required to make complaint of such violations of the provisions of the preceding section as may come to their knowledge, and the judges of the several district courts are required to give the preceding section in special charge to the grand juries of the several counties in their districts.

SEC. 34 (ADDED BY ACT OF MARCH 4, 1872). *Penalties may be enforced in the courts.*—The penalties imposed by this title (chapter) may be enforced by indictment and trial in any of the district courts of this state.

S. L. 1872, 128.

SEC. 35 (ADDED BY ACT OF MARCH 4, 1872). *Druggists, etc., subject to restrictions of this title (chapter).*—All keepers of drug stores, dispensaries, apothecary shops, or other business houses, in any manner dealing in spiritous, vinous, or malt liquors, for whatever purpose, shall be subjected to all the conditions, liabilities, and penalties prescribed for or imposed upon other persons by this title (chapter).

S. L. 1872, 128.

### TITLE III.

#### OF INDIANS.

(This Title is Chapter XXV. of the Statutes of 1866.)

SEC. 36 (1). *Indian committing crimes outside of reservation, punished how.*—If any Indian enters the limits of this state, or crosses the boundary line of his reservation, and there takes, steals, or destroys any property, real or personal, belonging to any citizen or inhabitant of this state, or commits any murder, violence, or outrage upon any such citizen or inhabitant, or commits any felony or misdemeanor whatever, recognized by the laws of this state as a felony or mis-

demeanor, he shall be subject to the existing laws of this state, and shall be punished accordingly.

SEC. 37 (2). *Not to leave reservation without passport.*—No Indian belonging to any tribe or band, within the limits of this state, shall be allowed to leave his reservation and cross the boundary line thereof, and go into or upon the lands, settlements, and claims belonging to the white inhabitants, or erect any tents or tepees upon any such lands as aforesaid, without having a passport from the superintendent, or agent of Indian affairs, or from the officer of the United States commanding the nearest military fort on the frontier; or shall remain therein after the expiration of such passport. Such passport shall express the object, the time he is allowed to remain, and the route he shall travel, and shall not confer upon any Indian the right of hunting or fishing on any grounds belonging to the white inhabitants.

SEC. 38 (3). *County officers to remove Indian, when.*—Any sheriff, constable, or any other county or town officer, may remove any Indian from lands, settlements, or claims belonging to the white inhabitants, if he does not comply with the provisions of the foregoing section; and it shall be the duty of all peace officers in their respective counties and towns, in the cases above stated, to call to their aid such persons or power as they deem necessary.

#### TITLE IV.

##### OF AUCTIONEERS.

(This Title is Chapter XXVIII. of the Statutes of 1866.)

SEC. 39 (1). *Who may appoint auctioneers.*—The board of county commissioners may license, for the term of one year, one or more legal voters of their county to be auctioneers. The county auditor shall record every license granted.

SEC. 40 (2). *Party appointed, to give bond.*—Each auctioneer, before making any sales as auctioneer, shall give a bond to the treasurer in the county in which he resides, with sufficient sureties, to be approved by the said treasurer, in such penal sum as the said treasurer requires, not less than one thousand dollars, nor more than three thousand dollars; with condition to pay all auction duties required by law to the treasurer of the said county, and also, that he will in all things well and truly conform to the laws relating to auctioneers; which bond shall be filed in the office of said treasurer, with the indorsement of his approval thereon.

SEC. 41 (3). *Receiving goods of minors or servants—penalty.*—If any person licensed as aforesaid, receives for sale at auction, any goods, wares, merchandise, or personal property from any minor or servant, knowing him to be such servant or minor, he shall forfeit a sum not exceeding two hundred dollars for each offense.

SEC. 42 (4). *Shall keep account of sales.*—Every licensed auctioneer shall keep a fair and particular account of all goods, chattels, and property sold by him, the names of the persons from whom the same were received, and the names of the persons to whom the same were sold.

SEC. 43 (5). *Penalty for selling without license.*—If any person, not licensed and qualified as an auctioneer, as prescribed in the preceding sections, sells or attempts to sell, any real or personal property at public auction, he is guilty of a

misdemeanor, and shall be punished by a fine not exceeding one hundred dollars for each offense.

SEC. 44 (6). *Violation of provisions of title (chapter)—penalty.*—The tenant or occupant of any house or store, having the actual possession and control of the same, who knowingly permits any person to sell any real or personal property at public auction in his said house or store, or in any apartment or yard appurtenant to the same, contrary to the provisions of this title (chapter), shall forfeit a sum not exceeding one hundred dollars.

SEC. 45 (7). *Official sales exempt.*—Nothing in this title (chapter) shall extend to sales made by sheriffs, deputy sheriffs, coroners, constables, or collectors of taxes.

SEC. 46 (8). *License limited to one year.*—No license granted as aforesaid, shall remain in force more than one year from the date thereof.

## TITLE V.

### OF THE REGULATION OF LABOR.

(This Title is Chapter XXIV. of the Statutes of 1866.)

SEC. 47 (1). *Ten-hour rule to govern, when.*—In all manufactories, work-shops, and other places used for mechanical and manufacturing purposes in this state, where children under the age of eighteen years and women are employed, the time of labor of the persons aforesaid shall not exceed ten hours for each day, and any owner, stockholder, or overseer, employer, clerk, or foreman, who compels any woman or any child under eighteen years of age to labor in any day exceeding ten hours, or permits any child under the age of fourteen, to labor in any factory, work-shop, or other place used for mechanical or manufacturing purposes, for more than ten hours in any one day, where such owner, stockholder, overseer, employer, clerk, or foreman has control, such person so offending shall be liable to a prosecution in the name of the state of Minnesota, before any justice of the peace, or court of competent jurisdiction of the county wherein the same occurs, and upon conviction thereof, shall be fined in any sum not less than ten or more than one hundred dollars.

SEC. 48 (2). *Rule in absence of contract.*—In all engagements to labor in any mechanical or manufacturing business, a day's work, when the contract of labor is silent upon the subject, or when there is no express contract, shall consist of ten hours, and all agreements, contracts, or engagements, in reference to such labor, shall be so construed.

## TITLE VI.

### OF BASTARDS AND THEIR SUPPORT.

(This Title is Chapter XVII. of the Statutes of 1866.)

SEC. 49 (1). *On complaint made, warrant to issue.*—On complaint being made to any justice of the peace, by any female who is delivered of a bastard child, or pregnant with a child, which, if born alive, might be a bastard, accusing any person

of being the father of such child, the justice shall take such complaint in writing, under the oath of such female, and shall thereupon issue his warrant against the person accused, directed to the sheriff or any constable of his county, commanding him forthwith to bring such accused person before the justice to answer such complaint.

7 Wis. 672.

SEC. 50 (2). *Action, how entered—proceedings on return of warrant.*—The justice shall enter an action in his docket in which the state of Minnesota is plaintiff and the accused is defendant, and shall make such other entries as are required in criminal actions. On the return of the warrant with the accused, the justice shall proceed to examine under oath the complainant, and such other witnesses as may be produced by the parties, respecting the complaint, and such examination shall be reduced to writing by the justice.

Complaint need not state sex, 19 Wis. 307.

SEC. 51 (3). *Accused person discharged, when.*—If such accused person pays or secures to be paid to the female complaining, such sum of money, or other property, as she may agree to receive in full satisfaction, and as is approved by the commissioners of the county, of which agreement and approval the justice shall make a memorandum upon his docket, and shall also pay all expenses, if any, incurred by such county, for the lying in, and support and attendance upon the mother of such child during her sickness, and the costs of prosecution, and shall also give bond with sufficient sureties to be approved by the justice, to the commissioners of the county in which such female resides, and their successors in office, conditioned to secure and indemnify such county from all charges, for the maintenance of the child born, or that may be born, the justice shall discharge such accused person.

12 Wis. 559; 17 Wis. 596.

SEC. 52 (4). *May be required to recognize, when.*—In case any person accused as aforesaid does not comply with the provisions of the preceding section, and there is probable cause for believing that he is guilty as charged in the complaint, the justice shall require such person to enter into a recognizance, with one or more sufficient sureties, to be approved by the justice, in a sum not less than one hundred dollars, nor more than five hundred dollars, to appear at the next term of the district court for the proper county, to answer the said complaint, and abide the order of said court thereon; and on his neglect or refusal to give such recognizance, the justice shall commit him to the jail of the county, there to be held to answer such complaint at the next term of such court; and such justice shall thereupon certify the examination so taken before him, and return the same, and all process and papers in the case, to the clerk of said court.

SEC. 53 (5). *Proceedings in district court.*—If, at the next term of said court, the complainant has not been delivered, or is not able to attend, or if at any time there is any other sufficient reason therefor, the court may order a continuance of the cause, and such continuance shall operate to renew the recognizance, and the same shall remain in full force until final judgment: *provided*, that if the sureties in the recognizance shall at any term of said court surrender the accused and request to be discharged from such recognizance, or if the court shall, for any cause, deem it proper, such court may order a new recognizance to be taken, and commit the defendant until he give such new recognizance.

SEC. 54 (6). *Trial, how conducted.*—Upon the trial of the action the issue shall be whether the accused is guilty or not guilty; and if he is found guilty, or if he admits the truth of the accusation, he shall be adjudged to be the father of such child, and be charged with the maintenance thereof, in such sum, or in such manner as the court may direct, together with the costs of prosecution; and the examination taken before the justice shall in all cases be read to the jury, when the reading of the same is demanded by the accused.

SEC. 55 (7). *Bond to be given.*—The person so adjudged to be the father of such child, shall give bond to the commissioners of the proper county, with sufficient sureties, to be approved by the court, for the performance of such judgment and order, and also for the payment of all expenses incurred by the county, for lying in, support of, and attendance upon the mother of such child during her sickness, and also for the care and support of such child prior to the giving of such bond; and in case he neglects or refuses to give such bond and pay the cost of prosecution, he shall be committed to the jail of the county, there to remain until he complies with the order of the court, or is discharged therefrom as provided by law.

SEC. 56 (8). *Prisoner may petition for discharge.*—Any person who has been imprisoned ninety days for having failed to comply with the judgment and order of the district court as provided in this title (chapter), may apply to said court or the judge thereof, by petition, setting forth his inability to comply with such judgment and order, and praying to be discharged from imprisonment, and shall attach thereto a schedule of all his property, money and effects, whether exempt from execution, or otherwise, verified by his affidavit, and thereupon said court, or judge, shall appoint a time and place of hearing said application, of which the petitioner shall give at least fifteen days' notice to the complainant, and the board of county commissioners of the county interested.

SEC. 57 (9). *Proceedings on hearing.*—At the time and place of hearing said application, the petitioner shall be examined on oath as to the facts set forth in his petition, and his ability to comply with said judgment and order, and any other legal evidence may be produced by the petitioner, complainant, or commissioners.

SEC. 58 (10). *Discharge directed, when.*—If upon such hearing it appears that the petitioner is unable to comply with said judgment and order, the court or judge may direct his discharge from custody, upon his taking an oath that he has not in his own name any estate real or personal, and has not any such estate conveyed or concealed, or in any manner disposed of, with design to secure the same to his use, or to avoid in any manner compliance with said judgment and order.

SEC. 59 (11). *Action to recover sum due.*—The mother of such child, and the said board of commissioners respectively, may at any time after the discharge of such prisoner, recover by action any sum of money which ought to have been paid to them respectively by him, in pursuance of such judgment and order of the court.

SEC. 60 (12). *Commissioners may prosecute such action, when.*—When said mother commences any such action, and fails to prosecute the same, the commissioners of the proper county, or any person interested in the support of such bastard, may prosecute the same to final judgment.

SEC. 61 (13). *They may make complaint to justice, when.*—If any female is delivered of a bastard child, which is a public charge, or likely to become a public charge, or is pregnant of a child, likely to be born a bastard and to become a public charge, the board of commissioners of the county where such female resides, or any



of them, may, upon application for aid in supporting such child by the mother thereof, or if they deem proper without such application, apply to some justice of the peace of the same county to make inquiry into the facts and circumstances of the case.

SEC. 62 (14). *Proceedings in such case.*—The justice shall examine such female on oath respecting the father of such child, the time when, and the place where said child was begotten, and such other circumstances as the justice deems necessary for the discovery of the truth: and shall thereupon issue his warrant to apprehend the reputed father; and the same proceedings shall be thereupon had, as if complaint had been made by such female, as prescribed in the foregoing provisions of this title (chapter), and with the like effect; any warrant issued under the provisions of this title (chapter) may be executed in any part of this state, and in all cases said commissioners and the accused may require the attendance of such female to testify, the same as witnesses in other cases.

SEC. 63 (15). *Commissioners may make compromise.*—The county commissioners before judgment in any case under this title (chapter) may make such compromise and arrangement with the putative father of any bastard child in such county, relative to the support of such child, as they deem equitable and just; and thereupon may discharge such putative father from all liability for the support of such bastard.

## TITLE VII.

### OF THE LAW OF THE ROAD.\*

(This Title is Chapter XIV. of the Statutes of 1866.)

SEC. 64 (1). *Persons with vehicles meeting to turn to the right.*—When persons meet each other on any bridge or road, traveling with carriages, wagons, sleds, sleighs, or other vehicles, each person shall seasonably drive his carriage or other vehicle to the right of the middle of the traveled part of such bridge or road, so that the respective carriages or other vehicles may pass each other without interference.

7 Wis. 236, 527; 11 Wis. 160; 13 Wis. 331; 23 Wis. 287.

SEC. 65 (2). *Driver passing vehicles to drive to the left.*—The driver of a carriage or other vehicle passing a carriage or other vehicle traveling in the same direction, shall drive to the left of the middle of the traveled part of a bridge or road, and if the bridge or road is of sufficient width for the two vehicles to pass, the driver of the leading one shall not willfully obstruct the same.

SEC. 66 (3). *Employment of intemperate drivers—penalty.*—No person owning or having the direction or control of any coach or other vehicle, running or traveling upon any road in this state, for the conveyance of passengers, shall employ or keep in employment any person to drive such coach or other vehicle who is addicted to drunkenness, or to the excessive use of intoxicating liquors.

\* What deemed the traveled part of highway, and where difficulty in turning to the right of the traveled part of the highway will excuse party, 7 Wend, 185; 12 Barb. 613. When the road is covered with snow, the center of beaten or traveled track is the center within the meaning of the statute, 12 Barb. 613. The rule does not apply to persons traveling on horseback, 24 Wend. 465.

SEC. 67 (4). *Penalty for violation of preceding sections.*—Whoever offends against the provisions of the preceding sections shall for each offense forfeit a sum not exceeding fifty dollars, and be further liable to any party for all damages sustained by reason of such offense: *provided*, that every complaint therefor shall be made within three months after the offense is committed, and that every action for damages shall be commenced within twelve months after the cause of action accrues.

SEC. 68 (5). *Driver not to leave horses without fastening them—penalty in case of neglect.*—No driver of a carriage or other vehicle used for the conveyance of passengers shall leave the horses attached thereto, while any passenger remains in or upon the same, without making such horses fast with a sufficient halter, rope, or chain, or without some suitable person to take the charge or guidance of them, so as to prevent their running; and if any such driver violates the provisions of this section, he and his employer, jointly and severally, shall forfeit a sum not exceeding fifty dollars; but no prosecution shall be commenced therefor after the expiration of three months from the time of committing the offense.

SEC. 69 (6). *Owners of vehicle liable to passengers for injuries caused by drivers.*—The owners of every carriage or other vehicle running or traveling upon any road or public highway, for the conveyance of passengers for hire, shall be liable, jointly and severally, to the party injured, for all injuries and damages done by any person in the employment of such owners as a driver, while driving such carriage, whether the act occasioning such injury or damage is willful, negligent, or otherwise.

## TITLE VIII.

### OF THE PRESERVATION OF GAME.

(*This Title is the Act of March 6, 1871. S. L. 1871, 79.*)

SEC. 70 (1). *Penalty for killing woodcock, etc.—time when.*—It shall be unlawful for any person to kill, destroy, or take, or pursue with intent to kill, destroy, or take any woodcock, except between the fourth day of July and the first day of December in any year, or any prairie hen or chicken, or white-breasted or sharp-tailed grouse, except between the first day of August and the first day of December in any year, or any quail, or partridge, or ruffed grouse, except between the first day of September and the first day of December in any year.

SEC. 71 (2). *Penalty for violation.*—Any person or persons who shall violate the provisions of the preceding section, and every person or corporation, railroad company, or express company, and every employee thereof, who shall sell, or expose for sale, and shall have in his or their possession or custody, with intent to sell, dispose of, or transport, or for any other purpose, during the times when the killing of the same is prohibited by this act, any woodcock, prairie hen or chicken, white-breasted or sharp-tailed grouse, quail, or partridge, or ruffed grouse, shall, upon conviction thereof, suffer a fine of five dollars for each and every one of said birds so killed, destroyed, or taken, or pursued with intent to kill, destroy, or take, or so sold, or exposed for sale, or so had in possession, together with the costs of prosecution.

SEC. 72 (3). *Penalty for killing deer, etc.—time when.*—It shall be unlawful for any person or persons to kill, or take, by any means, contrivance, or device whatever, or sell, or expose for sale, or worry or hunt the same with hounds or dogs, any elk, deer, buck, doe, or fawn, between the first day of January and the first day of August in any year, and no person or persons, corporation, railroad company, or express company, or agent or employee thereof, shall have in his or their possession or custody, for the purpose of sale or transportation, or for any other purpose, any elk, deer, buck, doe, or fawn, or piece or green skin thereof, between the fifteenth day of January and the first day of August in any year; and any person or persons, corporation or company, and every agent or employee thereof, who shall violate the provisions of this section, shall, upon conviction thereof, suffer a fine of ten dollars for each and every elk, deer, buck, doe, or fawn, or piece or green skin thereof, killed, taken, sold, exposed for sale, or had in possession, contrary to the provisions of this section, together with the costs of prosecution.

SEC. 73 (4). *Penalty for destroying nests of certain fowls.*—Any person or persons who shall wantonly or maliciously break up or destroy, take away, or in any manner interfere with any nest, or the eggs therein, of any prairie hen or chicken, woodcock, snipe, partridge, or ruffed grouse, quail, plover, or any species of wild duck, brant, or wild goose, or who shall have the eggs thereof in his or their possession, or shall sell, or expose for sale, the said eggs, shall, upon conviction thereof, suffer a fine of five dollars for each and every nest so broken up, destroyed, taken away, or interfered with, and a further fine of one dollar for each and every egg so had in his or their possession, or so sold, or exposed for sale, together with the costs of prosecution. Every railroad and every express company, and all employees and agents thereof, who shall have said eggs in his or their possession or custody, shall be liable to the same penalty.

SEC. 74 (5). *Manner of killing game—penalty for violation.*—Whoever shall at any time catch or kill any partridge or ruffed grouse, quail, prairie hen or chicken, or white-breasted or sharp-tailed grouse, in any other manner than by shooting them with a gun, shall suffer a fine of five dollars for each and every bird so caught or killed; and whoever shall at any time set, lay, or prepare any trap, snare, net, or other device, with intent to catch or kill any of the birds aforesaid, shall, upon conviction, suffer a fine of twenty-five dollars for each and every such offense.

SEC. 75 (6). *What to be deemed evidence of violation.*—The possession of any elk, deer, buck, doe, fawn, or piece or green skin thereof, between the fifteenth day of January and the first day of August in any year, or of any woodcock before the 4th day of July or after the 1st day of December in any year, or of any prairie hen or chicken, or white-breasted or sharp-tailed grouse, before the 1st day of August, or after the first day of December in any year, or of any quail, or partridge, or ruffed grouse before the first day of September or after the first day of December in any year, shall be deemed to be, and shall be received as evidence that said elk, deer, buck, doe, fawn, or bird was killed at a time when such killing is forbidden by the provisions of this title (chapter).

SEC. 76 (7). *Penalty for killing any bird—exceptions.*—Whoever kills, cages, or traps any nightingale, whippoorwill, night hawk, blue bird, finch, thrush, lark, linnet, sparrow, wren, martin, swallow, bobolink, robin, turtle dove, catbird, or any other harmless bird not elsewhere mentioned in this title (chapter), excepting aquatic fowls of every kind, blackbirds, and wild pigeons, shall suffer a fine of five dollars for each and every bird so killed, caged, or trapped.

SEC. 77 (8). *Penalty for trespass.*—Whoever enters into any growing crop not his own, with sporting implements about his person, or permits his dog or dogs to enter into any such growing crop without permission of the owner thereof, shall suffer a fine of ten dollars for each offense so committed.

SEC. 78 (9, AS AMENDED BY ACTS OF FEBRUARY 29, 1872, AND MARCH 5, 1873). *Penalty for catching trout—time when—applicable to Washington county only.*

—Whoever catches or has in his possession, or exposes for sale within the state of Minnesota, any speckled river or brook trout, before the first day of April or after the first day of October in any year, or takes, catches, or kills at any time, any of said trout, save with a hook and line, or takes, catches, or kills at any time, any fish of any kind, from any of the waters in the state of Minnesota, excepting lake Superior, the West Chain lakes in Martin county, the Mississippi, Minnesota, St Croix, and Rook rivers, in any other manner than by shooting them with a gun, or by the use of a spear, or hook, and line, shall suffer a fine of five dollars for each and every fish so caught, taken, had in possession, or exposed for sale; and whoever shall at any time put into any waters within the state of Minnesota any deleterious substance with intent to kill or take fish, shall, upon conviction thereof, suffer a fine of twenty-five dollars for each and every such offense, together with the costs of prosecution: *provided, however*, that any person or persons propagating and raising speckled or brook trout in creeks, brooks, or ponds, owned by or in possession of such person or persons, may catch and dispose of any speckled or brook trout so propagated and raised, at any season of the year, and shall not be liable to any of the penalties prescribed in this title (act). The provisions of this act shall be applicable to Washington county only.

S. L. 1872, 162; 1873, 140.

SEC. 79 (10). *Prosecutions, when commenced—fines, how paid—power of justice.*  
—All prosecutions under the provisions of this title (chapter) shall be commenced within one month from the time when such offense was committed, and the same shall be upon complaint under oath before any justice of the peace in any town, or police justice of any city in the county where the offense was committed, or where the defendant may reside or be found, and all fines imposed and collected under this chapter shall be paid, one-half to the complainant and one-half into the treasury of the county where such conviction takes place, for the use of the common schools within such county. Any such justice of the peace or police justice is authorized, upon receiving sufficient security for the costs on the part of the complainant, and satisfactory proof by affidavit, of the violation of any of the provisions of this chapter, by any person being temporarily within his jurisdiction, but not residing therein, or by any person whose name and residence are unknown, to issue his warrant and have such offender committed or held to bail to answer the charge against him; and any such justice of the peace or police justice may, upon proof of probable cause to believe in the concealment by any person within his jurisdiction of any fish, game, game bird, or wild fowl mentioned in this chapter during any of the prohibited periods, or obtained in any manner prohibited by this chapter, issue his search warrant and cause search to be made in any house, market, boat, car, or other building or premises, or wheeled vehicle, and for that end may cause any apartment, chest, box, crate, or locker to be broken open and the contents examined.

SEC. 80 (11). *Duty of town supervisors and constables.*—It is the duty of supervisors and constables of towns and police officers of cities, having knowledge of the

violation of any of the provisions of this title (chapter), to make complaint thereof to any justice of the peace of the proper county, or police justice of the city, and any other person having such knowledge, may make complaint before such justice, and the said justice shall issue his warrant for the arrest of the offender, and proceed to hear and determine the matter in issue in the same manner as provided in other cases; and every person convicted under any of the provisions of this title (chapter) shall stand committed until such fine is paid: *provided*, that such imprisonment shall not exceed three months.

SEC. 81 (12). *Exporting game for traffic—penalty.*—The exportation of the carcasses of any of the game birds specified in sections seventy and seventy-one (one and two), or of any of the game animals specified in section seventy-two (three) of this title (act), from any point within this state to any place or point within any other state, for purposes of sale or traffic, is hereby declared to be unlawful, and any offender against the provisions of this section shall, upon conviction thereof before any justice of the peace, or any court of competent jurisdiction, be punished by fine of not more than fifty nor less than ten dollars for each and every carcass of game bird and game animal so exported from beyond the limits of this state, for purposes of sale or traffic as aforesaid, or by imprisonment not longer than thirty days.

SEC. 82 (14). *When act to take effect.*—This act shall take effect and be in force from and after its passage, and shall be published during the first week in April in each year in some newspaper printed and published at the county seat of each county in the state, the expenses of such publication to be paid out of the treasuries of the respective counties; and it shall be the duty of the county treasurer of each county to cause such publication to be made.

Sec. 13 of this act repeals chap. 20 of general statutes, and all acts amendatory thereto, and sec. 15 repeals all inconsistent acts.

There have been numerous acts passed by the legislature upon the cultivation and preservation of fish, but all are of a local nature, and hence are not given here save by way of reference. They may be found as follows: S. L. 1873, 140, 141, 142, 143, 144.

## TITLE IX.

OF PROTECTION OF, AND FOR THE PREVENTION OF CRUELTY TO ANIMALS.

### ARTICLE I.

(*This Article is the Act of March 6, 1871. S. L. 1871, 84.*)

SEC. 83 (1). *Penalty for misusing, etc., beast—in what amount.*—Whoever shall overdrive, overload, overwork, torture, torment, deprive of necessary sustenance, cruelly beat, mutilate, or cause or procure to be so overdriven, overloaded, overworked, tortured, tormented, deprived of necessary sustenance, cruelly beaten, or mutilated, any horse, ox, or other animal, and whoever having the charge or custody of any such animal, either as owner or otherwise, shall unnecessarily fail to provide such animal with proper food, drink, and shelter, or protection from the weather, shall, for each and every such offense, be punished by imprisonment in jail not exceeding three months, or by fine not less than ten dollars, and not exceeding one hundred dollars, or by both such fine and imprisonment.

SEC. 84 (2). *Liability of owners of, permitting ill-treatment to animals.*—Every

owner of or person having the charge or custody of any horse, ox, or other animal, who shall knowingly and willfully authorize or permit the same to be subjected to, or suffer any unnecessary torture or cruelty, shall be punished for every such offense in the manner provided in section eighty-three (one).

SEC. 85 (3). *Penalty for using animals when unfit.*—Every owner, driver, or possessor, or person having charge or custody of an old, maimed or disabled, or diseased horse, mule, ox, or any other animal, who shall cruelly work the same when unfit to work, or cruelly abandon the same, shall be punished for every such offense in the same manner provided in section eighty-three (one).

SEC. 86 (4). *Transporting animals by railroad—time limited, how estimated.*—No railroad company in this state in the carrying and transportation of sheep, swine, or other animals shall confine the same in cars for a longer period than twenty-eight consecutive hours, unless delayed by storm or other accidental causes, without unloading for rest, water, and feeding, for a period of at least five consecutive hours. In estimating such confinement, the time the animals have been confined without such rest on connecting roads from which they are received, except upon contingencies hereinbefore stated.

SEC. 87 (5). *Refusal to pay for such care and feed, how collected.*—If the owner or person in charge of the said animals, refuses or neglects to pay for the care or feed of animals so rested, the railroad company may charge such expense to the owner or consignee, and retain a lien upon the animals until the same is paid; and no claim or damages for detention shall be recovered by the owner or shipper of any animals for the time they are detained under the provisions of this title (act).

SEC. 88 (6). *Penalty for violation.*—Any railroad company, owner, consignee, or person in charge of said cattle, sheep, swine, or other animals, who shall violate any provision of the eighty-sixth (fifth) or eighty-seventh (sixth) section of this title (act) shall for each and every violation be liable for and forfeit and pay a penalty of one hundred dollars, to be recovered in the name of the people of the state of Minnesota, before any justice of the peace of the proper county.

SEC. 89 (7). *Defines certain words.*—In this act the word "animal" or "animals" shall be held to include all brute creatures, and the words "owner," "person," and "whoever," shall be held to include corporations as well as individuals; and the knowledge and acts of agents and of persons employed by corporations in regard to animals transported, owned, or employed by, or in custody of such corporations shall be held to be the acts and knowledge of such corporation.

SEC. 90 (8). *Punishment for abandonment of disabled animals.*—If any maimed, sick, infirm, or disabled animal shall be abandoned to die by any owner, or person having charge of the same, such person shall for every such offense be punished in the same manner provided in section eighty-three (one).

SEC. 91 (9). *Penalty for fighting bulls, bears, cocks, etc.*—Any person who shall keep, or use, or in any way be connected with, or interested in the management of, or shall receive money for the admission of any person to any place kept or used for the purposes of fighting, or baiting any bull, bear, dog, cock, or other creature, and every person who shall encourage, aid, or assist therein, or who shall permit or suffer any place to be so kept or used, and every person who shall visit such place so kept or used, or who shall be found therein, shall, upon conviction thereof, be punished for every such offense, in the same manner provided in section eighty-three (one).

SEC. 92 (10). *How arrests may be made.*—Any person found violating the laws in relation to cruelty to animals, may be arrested and held without warrant, in the same manner as in case of persons found breaking the peace; and the person making an arrest with or without a warrant, shall use reasonable diligence to give notice thereof to the owner of animals found in the charge or custody of the person arrested. And shall properly care and provide for such animals until the owner thereof shall take charge of the same: *provided*, the owner shall take charge of the same within sixty days from the date of said notice. And the person making such arrest shall have a lien on said animals for the expense of such care and provision.

SEC. 93 (11). *Duty of sheriffs, etc.—disposition of fines collected.*—It shall be the duty of all sheriffs, deputy sheriffs, constables, and police officers to prosecute all violations of the provisions of this title (act) which shall come to their notice or knowledge, and any policeman, sheriff, or constable of any city or county, or any agent of the Minnesota society for the prevention of cruelty to animals, shall, upon his own view of any such violation, or upon the complaint of any other person who may declare his or her name or abode to such policeman, constable, sheriff, or agent, make arrests, and bring before any court or magistrate thereof offenders found violating the provisions of this act. And all fines and forfeitures imposed or collected under the provisions of this title (act) in any such city or county, shall inure and be paid (pay) over to the Minnesota society for the prevention of cruelty to animals, in aid of the benevolent objects for which it was incorporated.

SEC. 94 (12). *Jurisdiction of police courts.*—The several municipal and police courts and justices in this state shall have full concurrent jurisdiction with the district court of all offenses under this title (act), and to the full extent of the penalties therein specified.

SEC. 95 (13). *Provisions of certain sections not applicable, when.*—The provisions of section eighty-six (five) of this title (act), requiring animals to be unloaded, shall not apply when they are properly fed and watered on the cars in which they are transported.

Section 15 repeals all inconsistent acts. The sections of the act from 4 were incorrectly numbered.

## ARTICLE II.

### FOR THE PROTECTION OF SHEEP.

SEC. 96 (ACT OF MARCH 7, 1867). *Dogs to be killed for worrying sheep.*—It is lawful for any person to kill or cause to be killed any dog or dogs which have been or shall be found injuring, fretting, or killing any lambs or sheep within this state.

S. L. 1867, 63.

SEC. 97 (ACT OF MARCH 6, 1873). *Owner of dog which kills sheep is liable.*—The owner or possessor of any dog that shall kill, wound, or worry any sheep or lamb shall be liable for the value of such sheep or lamb to the owner thereof, without proving notice to the owner or possessor of such dog, or knowledge by him that his dog was mischievous or disposed to kill sheep.

S. L. 1873, 140. 16 Wis. 566. What sufficient ownership of dog, *vide* 11 Wis. 293; 21 Barb. 333.

## TITLE X.

## TO PREVENT THE SPREAD OF NOXIOUS WEEDS.

(This Title is the Act of February 29, 1872. S. L. 1872, 97.)

SEC. 98 (1). *Canada thistle a common nuisance.*—The weed known as Canada thistle is hereby declared to be a common nuisance for all the purposes of this title (act).

SEC. 99 (2). *Penalty for allowing them to grow.*—Any person or persons owning any lands within this state or occupying or having control of any lands, whether within the plat of towns, villages, or cities, or otherwise, within this state, knowingly permitting or suffering any Canada thistle or thistles to go to seed upon any land or lands thus owned, occupied, or under the control of such person or persons, shall be deemed guilty of maintaining and supporting a common nuisance, and upon conviction thereof in any court having competent jurisdiction of the offense, shall be punished by fines not exceeding fifty dollars nor less than five dollars, said fine to go into the town treasury where such thistle or thistles are permitted to grow.

SEC. 100 (3). *Penalty for neglect to destroy them—duties of town supervisors.*—In case any person or persons, railroad company, or other incorporation owning or occupying any lands within this state, or having any lands within this state under his, or her, or their control, as the case may be, shall refuse or neglect to destroy any Canada thistle or thistles, growing or standing upon any land or lands so owned, occupied, or controlled, it shall be the duty of the town supervisors or other person or persons having control of the public highways, streets, or alleys, where any such thistle or thistles may be found growing or standing, to immediately destroy, or cause the same to be destroyed, and pay therefor at the same rate that is paid for road labor; and every supervisor or other person hereinbefore authorized to destroy said thistles, shall keep a correct account of all moneys paid out for that purpose, and charge the same to the person, or persons, or incorporation owning, occupying, or controlling the land or lands upon which such thistle or thistles was destroyed, and the person, or persons, or corporation owning, occupying, or having control of such lands shall be liable in a civil action for the amount so charged against them and costs of suit: *provided*, that if any supervisor or other person having under the authority of this title (act) destroyed any Canada thistles, and is unable to find the owner of the land, or is unable to collect such money, the same shall be paid by the town authorities of the town, village, or city where such thistles were destroyed; *and provided further*, that in case any railroad company becomes chargeable, under the provisions of this section, the supervisors of the township where the same has become chargeable, may certify to the same to the county attorney of their county, whose duty it shall be to bring and prosecute a civil action against the railroad company for the amount so charged and costs of suits aforesaid.

SEC. 101 (4). *Prosecutions to be before justice of the peace.*—Justices of the peace shall have jurisdiction within their respective counties of all violations of the provisions of this title (act), and it shall be competent for any person to complain of and prosecute any person or persons, railroad company, or other corporation violating the same, and it is hereby made the duty of every person having know-



ledge of any Canada thistle or thistles growing or standing upon the land of another, to immediately destroy the same or give the person owning or occupying such lands immediate notice thereof.

SEC. 102 (5). *Fines to go into town treasury.*—All fines collected by any justice of the peace or any other person under the provision of this title (act) shall be paid into the treasury of the proper town, village, or city within ten days after the same is collected.

SEC. 103 (6). *Appeals to district court.*—Any person fined under the provisions of this title (act) feeling himself aggrieved may appeal to the district court of the proper county in the same manner, and within the same time, that appeals are allowed by law in justice court in other criminal actions.

## TITLE XI.

TO ENCOURAGE THE PLANTING AND GROWTH OF TREES, SHRUBS, ETC.

### ARTICLE I.

OF TIMBER AND SHADE TREES.

(*This Article is the Act of February 20, 1873. S. L. 1873, 136.*)

SEC. 104 (1). *Terms of the bounty offered for tree planting.*—Every person planting one acre or more of prairie land, within five years after the passage of this act, with any kind of forest trees, except black locust, and successfully growing and cultivating the same for three years, and every person planting, protecting, and cultivating for three years, one half mile or more of forest trees, along any public highway, said trees to be planted so as to stand not more than one rod apart at the end of three years, and when planted on each side of any highway, such trees shall not be planted within the four-rod limit of such highway, shall be entitled to receive, for ten years thereafter, an annual bounty of two dollars for each acre, and two dollars for each half mile so planted and cultivated, to be paid out of the state treasury; but such bounty shall not be paid any longer than such grove or line of trees is maintained and kept in a growing condition.

SEC. 105 (2). *How the claims to tree bounty are to be made.*—Any person wishing to secure the benefit of this title (act), shall, within three years after planting such grove, or line of trees, and annually thereafter, file with the county auditor of the county in which the same is located, a correct plat of the land, describing the section, or fraction thereof, on which such grove, or line of trees, has been planted or cultivated, and shall make due proof of such planting and cultivation, as well as of the title to the land, by the oath of the owner and the affidavit of two householders residing in the vicinity, setting forth the facts in relation to the growth and cultivation of the grove, or line of trees, for which such bounty is demanded. The several county auditors shall annually, on or before the first day of August, forward to the state auditor a certified list of all the lands and tree planting reported and verified to them in compliance with this title (act), with the names and post-office address of the respective owners thereof: *providing*, this

title (act) shall not apply to any railroad company for planting of trees within two hundred feet of its track for the purpose of snow fence.

SEC. 106 (3). *How bounty to be paid.*—If the state auditor shall find that the provisions of this title (act) have been duly complied with, he shall issue to the several applicants entitled thereto, his warrant upon the state treasurer for the bounty named in the one hundred and fourth (first) section, on or before the first Monday of October in each year: *provided*, that if the aggregate of the bounty so applied for shall, in any one year, exceed twenty thousand dollars, it shall be the duty of the state auditor, on the first Monday of October, in such year, to equitably distribute twenty thousand dollars, and no greater sum, among the claimants who may be entitled to the aforesaid bounty, and his warrants for such *pro rata* shall relieve the state from further claims for such year.

*Vide* Act of March 6, 1871 (1871, 75), also Act of March 7, 1867 (S. L. 1867, 60), appropriating money for above purpose.

## ARTICLE II.

### OF HEDGES.

SEC. 107 (ACT OF MARCH 7, 1867). *Right of person planting.*—Any person who may plant a close hedge upon his property, along the line of any road or street, which is not less than sixty feet wide, shall have the right to build and maintain a temporary fence along the side of such road or street, six feet or less from the line thereof, for the period of five years from the time of planting such hedge, for the purpose only of protecting the growing of such hedge.

S. L. 1867, 63.

## TITLE XII.

### OF THE DRAINING OF SWAMP AND MEADOW LANDS.

(*This Title is the Act of March 1, 1866. S. L. 1866, 65.*)

SEC. 108 (1). *For draining, etc., application to be made to justice, who shall issue summons.*—Any person owning or possessing swamp, bog, meadow, or other low land lying in any county within this state, who shall be desirous to drain such land, and who shall deem it necessary in order to do it that a ditch or ditches shall be opened through lands belonging to other persons, in case the owner of any such lands shall refuse to permit the opening of any such ditch or ditches through the same, may apply to any justice of the peace residing in the county where such lands shall lie, for such summons as is herein specified.

SEC. 109 (2). *Justice to issue summons—what service required, and how made.*—The justice to whom such application shall be made, shall thereupon issue a summons, directed to the sheriff or any constable of said county, requiring him to summon the owner of the land to appear before such justice at the time named in the summons, not less than six nor more than fifteen days from the date thereof, to answer to such application, defining the same, and designating the land through which it is proposed to open such ditch or ditches. The summons shall be per-

sonally served upon the owner of the land, if he is a resident of the county, and upon the occupant of the land if the owner is not a resident of the county, and returned like an ordinary summons; but if on the return of the summons it shall appear that there is no owner or occupant of the land residing in the county, the justice shall adjourn the case for not less than three nor more than six weeks, endorsing upon the summons his order of adjournment, and order the publication of the summons and his order of adjournment for three successive weeks, in a newspaper published in such county, if there be a newspaper in such county, or if there be no such newspaper in the county, then to order the publication of the summons and the order of adjournment, by setting up copies thereof for at least three weeks, at three of the most public places in the county, and such publication shall be considered as a sufficient service of the summons.

SEC. 110 (3). *Justice may dismiss.*—At the time specified in the summons therefor or at the time adjourned, as the case may be, the parties may appear before the justice, and the justice may, for any sufficient reason, dismiss the application, and he may adjourn the same for any cause shown satisfactory to him, not exceeding three months, or on his motion, not exceeding one week.

SEC. 111 (4). *Jury to be summoned within certain time.*—On the appearance day, or in case the application is adjourned, on the day to which it is adjourned, a jury of six men, qualified to serve as jurors in a justices' court, and not interested in the premises, shall be selected and summoned in the same manner as a jury in a civil case before a justice of the peace. The jurors shall be required to meet on the premises at a time specified in the venire, not more than twenty days from the date thereof.

SEC. 112 (5). *Jurors summoned in same manner as in civil actions.*—The constable or sheriff to whom such venire shall be delivered, shall execute the same by summoning each juror in the same manner, and with the like authority, as upon a venire issued in a civil action before a justice of the peace, and shall in like manner make return thereof.

SEC. 113 (6). *Jurors to be on oath.*—The justice shall attend at the time specified in the venire, and if the six jurors shall then and there appear, he shall administer to each of them an oath or affirmation well and truly to examine and certify in regard to the benefits and damages which will result from the opening of said ditch or ditches; vacancies in the jury may be filled by talismen, as in civil cases before a justice of the peace.

SEC. 114 (7). *Applicant to deliver to jury a map.*—The person applying to have such ditch or ditches opened, shall then deliver to the jury a map of the land through which the same are to be opened, on which map the plan, length, width, and depth of such ditch or ditches shall be particularly designated. The jury shall personally examine the premises, and hear any reason that may be offered in regard to the question submitted to them; and they may, if they think proper, vary the plan or dimensions of any ditch so proposed to be opened, but in such case they shall designate on the map the alterations made by them.

SEC. 115 (8). *Jury to be satisfied of necessity.*—If, after taking all the circumstances into consideration, the jury shall be satisfied that the opening of such ditch or ditches is necessary or advantageous, they shall so certify in writing, and if satisfied, they shall further certify in writing the amount of damages which in their opinion will be just compensation to the owner of the land for the opening of such

ditch or ditches through his land, and such certificate shall be signed by all the jurors and delivered to the justice forthwith.

SEC. 116 (9). *Appeal by either party to district court.*—Either party may appeal from the decision of the jury to the district court of the county in which the premises are situated, by filing with the justice, within ten days after the jury shall have delivered to him their decision, a recognizance of the appellant, with sureties, approved by the justice, in a sum double the award of the jury, and not less than one hundred dollars, conditioned that the appellant will abide the decision of the district court, and pay all costs and damages assessed or awarded against him therein, or if the appeal shall be dismissed or discontinued, that he will pay all sums for which he would have been liable if no appeal had been taken, and the interest thereon with cost of appeal. The proceedings of the district court on the appeal shall be the same as an appeal in a civil action from a justice of the peace, as nearly as practicable, and costs shall be awarded for or against either party in the same manner as upon an appeal in a civil action.

SEC. 117 (10). *If no appeal taken work may be proceeded with.*—Upon payment or tendering of the damages assessed by the jury, if no appeal shall be taken, or awarded in the district court on appeal, as the case may be, and of the costs of such assessment, or if no damages shall be found, upon payment or tendering of the costs of the proceedings, it shall be lawful for the person applying for such summons to enter with his servants, team, carriage, and other necessary implements upon such lands, and then and there to cut and open such ditch or ditches as were designated on the said map, according to the plans and dimensions herein specified and adopted by the jury ordered in the district court, not deviating materially from such plans and dimensions.

SEC. 118 (11). *Applicant and his heirs to have right of entry.*—After such ditch or ditches shall have been opened, it shall be lawful for the said applicant, his heirs and assigns, for ever thereafter, from time to time, as it becomes necessary, to enter upon the lands through which such ditches have been opened, for the purpose of clearing out and scouring the same, and then and there to clear and scour such ditch or ditches in such manner as to preserve the original length, depth, and width of the same.

SEC. 119 (12). *Penalty for damming, etc.*—Any person who shall dam up, obstruct, or in any way injure any ditch or ditches so opened, shall be liable to pay to the person owning or possessing the swamp, bog, meadow, or other low land, for the draining of which such ditch or ditches shall have been opened, double the damages which shall be assessed by the jury for such injury, and shall further be deemed to have committed a misdemeanor, and shall, upon conviction thereof, be punished by imprisonment for not more than three months, or by fine of not more than one hundred dollars.

SEC. 120 (13). *Justice to file map, etc., in register's office.*—The justice before whom any proceedings shall be had under this title (act), shall cause the map delivered by the applicant and the certificate and inquisitions of the jury, which he shall certify to have been taken before him, to be filed in the register's office of the county in which the premises shall be situated, to be kept in said office as a record of the proceedings between the parties; or if an appeal shall be taken, the applicant shall cause such map and the certificate by the clerk of the district court of the decision therein to be filed in like manner.

SEC. 121 (14). *Gives equal rights to other parties.*—Any person desiring to construct ditches or canals from any lake, for the purpose of creating or increasing any water-power, may do so under this title (act), and shall be governed by its provisions.

## TITLE XIII.

### OF MINES AND MINING CLAIMS.

(*This Title is the Acts of March 2, 1866 (S. L. 1866, 81), and March 6, 1867. S. L. 1867, 40.*)

SEC. 122 (1). *Districts, how and for whom to be formed.*—The miners and inhabitants of any section of this state in which there may be mines of gold, silver, or other metals upon the public lands of the United States for which patents have not been issued, may meet and form a mining district, not to exceed in extent five miles square, fix the boundaries, adopt a name, and pass such rules and regulations for such districts as may be deemed by them necessary for the location, holding, recording, and working of mines or mining claims upon such public lands of the United States within such district. They may also elect a recorder for said district, and provide his qualifications, duties, fees, and liabilities: *provided*, that no such mining claim shall exceed in extent two hundred feet square: *and provided further*, that no such mining claim shall be made except by actual occupancy.

SEC. 123 (1 OF 1867). *Size of district.*—All mineral districts to be hereafter formed in this state shall conform to the township lines of six miles square.

SEC. 124 (2 OF 1866). *What to be received as evidence on trial.*—On the trial of any action in any court of this state involving the right to or the possession of any such mine or mining claim, or involving any right growing out of any such mine or mining claim, the rules and regulations so adopted in said district, or authenticated copies thereof, may be given in evidence, and so far as applicable shall govern the case.

SEC. 125 (2 OF 1867). *Claim to be made in person.*—All mineral claims shall be made in person by the party claiming, and any claim not thus made is invalid.

SEC. 126 (3 *ib.*) *Rights of claimant.*—When a mineral vein or lode or lead, containing gold, silver, cinnabar, or copper is discovered, the party making the discovery shall be entitled to two hundred feet on said vein or lode or lead as a discovery claim, with one hundred feet of land on either side of said vein or lode or lead, for its convenient working; and he shall also be entitled to an additional claim of two hundred feet on said vein or lode or lead, with one hundred feet of land on either side of said vein or lode or lead, for its convenient working, according to the act of congress, passed July 26, 1866.

SEC. 127 (4 *ib.*) *Correct measurement.*—To secure mineral claims, the person making them shall measure off correctly the number of feet allowed by law, and shall post up a notice of said claim, of a substantial nature, upon a stake or tree, at the end of every two hundred feet, upon which shall be written the name of the vein, with date of taking, name of claimant, number of claim, and its general direction.

SEC. 128 (5 *ib.*) *Shaft to be sunk.*—The claimant shall, within the three months from the time of posting up a notice of his claim, in compliance with the

law, sink a shaft on said claim three feet deep by five feet square, and shall take from the bottom of the shaft so sunk specimens of the rock, properly labelled, with the name of vein, name of claim, and name of claimant thereon; number of claim, east or west, with a correct description of said claim, and file with the register of deeds of the county in which the mineral district is situated, and the register of deeds, after being satisfied that the said claimant has complied with the requirements of the law, and that he has not exceeded the two hundred feet, shall issue to said claimant, and record the same, a certificate with description of claim, that said claim has been properly secured under the provisions of the law.

SEC. 129 (6 *ib.*) *Failure to sink.*—In case the claimant fails to sink a shaft three feet deep by five feet square within the three months specified, then he shall forfeit all right to the claim, and any other party can come in and take possession.

SEC. 130 (7 *ib.*) *When to have possession.*—Whenever any citizen of the United States, or those who have declared their intentions to become citizens, shall have complied with the provisions heretofore set forth, then they shall have rightful possession of all claims made under and by virtue of this act for the space of one year from the date of said claim; and unless a shaft ten feet deep by five feet square is sunk within a year from the date of the claim made, then all right and title to said claim shall be forfeited, and another claimant may come in and take possession, and secure a title under the law.

SEC. 131 (8 *ib.*) *Penalty.*—Any person found tearing or mutilating any notice posted on any mineral claim in this state shall be subject to arrest and imprisonment, and on conviction, shall be fined not less than fifty nor more than one hundred dollars.

SEC. 132 (9 *ib.*) *Mineral claim defined.*—The term "mineral claim," as used in the preceding section, shall be construed to embrace all water rights, ditches, flumes, timber claimed, or other interest appurtenant, necessary, or auxiliary, to a mine, or mining claim, or the working thereon.

SEC. 133 (10 *ib.*) *Fees of register.*—The fees of register of deeds shall be as follows: recording claim, one dollar; transfer of claim, twenty-five cents for each folio of one hundred words; and twenty-five cents for each certificate.

SEC. 134 (11 *ib.*) *Claim to be recorded.*—It shall be necessary to place in the hands of the register of deeds a description of each claim for record, within thirty days from the date of the taking.

SEC. 135 (12 *ib.*) *Claims in unorganized counties.*—In case any mineral district in this state is located in an unorganized county, the claims shall be recorded in the organized county to which such unorganized county has been attached for judicial purposes, and the register of deeds of said organized county shall perform the duties and receive the fees as provided by law.

SEC. 136 (13 *ib.*) *Register of deeds to report to secretary of state.*—It shall be the duty of all registers of deeds in counties where mineral claims are filed to make a report every three months to the secretary of state of the number of claims taken, number of shafts sunk, and the general condition of the mines.

## TITLE XIV.

## OF THE REGULATION OF PATENT RIGHTS.

(*This Title is the Act of March 6, 1871. S. L. 1871, 67.*)

SEC. 137 (1). *Application must be filed with clerk of district court.*—It shall be unlawful for any person or persons to sell or barter, or offer to sell or barter, in any county within this state, any patent right or any right which such person shall allege or pretend to be a patent right, without first having filed with the clerk of the district court of such county, a true copy of the letters patent, duly authenticated under the seal of the proper officer, and at the same time subscribing and swearing or affirming to an affidavit before such clerk, that such letters patent are genuine, and have not been revoked or annulled, and that he has full authority to sell or barter in such county the right so patented; and said affidavit shall also set forth his name, age, occupation, and residence, and if an agent, the name, occupation, and residence of his principal. Said affidavit shall be filed in the office of said clerk, who shall give to the applicant a certificate under his official seal, setting forth in detail the facts showing a full compliance by said applicant with the provisions of this title (act), and said applicant shall exhibit the same to any person on demand.

SEC. 138 (2). *What to be deemed evidence.*—Any person who may take any promissory note or other obligation in writing, for which any patent right, or right claimed or pretended by him or her to be a patent right, shall form the whole or any part of the consideration, shall, before it shall be signed by the maker or makers, insert in the body of said note or other written instrument, above the place of signature of said maker or makers, in plain and legible writing, or print the words, "Given for a patent right," and in all cases where such words or equivalent words are written or printed upon the face of any note or other written instrument, the same shall be deemed and taken in all courts and places to be *prima facie* evidence that the consideration of said note or other instrument was the sale of a patent right or a pretended patent right, or of the right to make, use, or vend the same, or the pretended right to make, use, and vend the same; and the same defense may be interposed thereto if said note or instrument shall have been transferred that might have been interposed had the same remained in the hands of the person to whom the same was given or made payable.

SEC. 139 (3). *Penalty for non-compliance.*—Any person who shall sell or barter, or offer to sell or barter within this state, any patent right or pretended patent right, or shall take any promissory note or obligation in writing for a patent right, or for what he may call or pretend to be a patent right, without complying with all the requirements of this title (act), or shall refuse to exhibit the certificate mentioned in section one hundred and thirty-seven (one) of this title (act), whenever demanded, shall be deemed guilty of a misdemeanor, and upon conviction thereof by any court of competent jurisdiction, shall be punished by a fine not exceeding one thousand dollars, or by imprisonment in the jail of the proper county not more than one year, or by such fine and imprisonment both, in the discretion of the court, and shall also be liable to the party injured, in a civil action, for treble the amount of damages sustained.

SEC. 140 (4). *Penalty for false swearing.*—Whoever shall willfully swear or affirm falsely in regard to any of the matters or things required to be set forth in the affidavit mentioned in section one hundred and thirty-seven (one) of this title (act), shall be deemed guilty of perjury.

SEC. 141 (5). *Fees of clerk of court.*—Clerks of the district court shall be entitled to the following fees for their services under this title (act): For receiving and filing copies of letters patent, one dollar; for administering oaths, twenty-five cents; for the certificate provided in section thirty-seven (one) of this title (act), one dollar; for all other certificates, fifty cents.

SEC. 142 (6). *Clerk to file copies of letters patent—penalty for violation.*—No clerk of the district court shall receive or file in his office any copy of letters patent unless the same shall have been duly authenticated under the seal of the commissioner of patents, nor shall such clerk issue to any person the certificate mentioned in section one hundred and thirty-seven (one) of this title (act), until such person shall have first fully complied with all the provisions of this title (act). And if any such clerk shall violate any of the provisions of this title (act), he shall be adjudged guilty of misdemeanor, and punished by a fine not exceeding one hundred dollars, or by imprisonment in the county jail not exceeding ninety days, and also be liable in damages to any party injured in a civil action.

SEC. 143. *How suits to be brought.*—All actions commenced before a justice of the peace, in the district court, or in a court of common pleas in this state, to recover any debt, demand, or sum of money, upon any promissory note or other written instrument, when such note or instrument has written or printed upon it the words, "Given for a patent right," shall be brought in the county where the defendant resides at the time of the commencement of such action, and not elsewhere.

SEC. 144. *Defines "patent right."*—The words "patent right" shall, for the purpose of this title (act), be construed to include any instrument, article, or thing whatsoever having a part thereof, or attached thereto, or connected therewith any device, combination, or mechanism whatever, upon which letters patent may have been granted and in force, or pretended or represented to have been granted and in force, or either, at the time of the making the note or other written instrument, upon which an action is or may be brought.

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Act went into effect June 1, 1871.