

## CHAPTER LII.

## OF FEES.

(This Chapter is Chapter LXX. of the Statutes of 1866.)

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SECTION 1. *Allowance of fees.*—For the services mentioned in this chapter, the fees hereinafter described are allowed :

## FEES OF CLERKS OF DISTRICT COURTS.

SEC. 2. *Fees of clerks of district courts.*—For issuing and sealing every writ, summons, subpoena, or process, seventy-five cents.

Certified copy of such writ when required, ten cents per folio and twenty-five cents for certificate.

Entering the return of every writ and filing such writ, fifteen cents per folio.

Entering an appearance, retraxit, discontinuance, nonsuit, or default, twenty cents.

Entering every rule, order, or motion in term, fifteen cents for each folio.

Certified copies of rules or orders, ten cents for each folio and twenty-five cents for the certificate.

Every report upon an assessment of damages or other matter referred to him, seventy-five cents, and fifteen cents per folio for such report when it exceeds five folios.

- Every certificate, twenty-five cents.  
 Calling and swearing grand jury, one dollar.  
 Calling and swearing petit jury in civil causes, seventy-five cents.  
 Swearing jurors in criminal causes, ten cents for each oath administered.  
 Swearing triers, ten cents for each oath administered.  
 Swearing each witness on trial, fifteen cents.  
 Swearing officer to take charge of jury, twenty cents.  
 Entering or taking a recognizance, seventy-five cents.  
 Entering a cause in a calendar for the court and making a copy thereof for the bar, twenty cents.  
 Receiving and entering a verdict, thirty cents.  
 Entering an action without process, sixty-five cents.  
 Certified copy of the minutes of a trial when required, seventy-five cents.  
 Entering a final judgment when the same does not exceed three folios, fifty cents, and fifteen cents for each additional folio.  
 Copy of judgment to be attached to judgment roll, fifteen cents for each folio.  
 Entering satisfaction of judgment, twenty cents for each judgment debtor.  
 Drawing a special jury, seventy-five cents.  
 Filing every paper, ten cents.  
 Copies and exemplifications of records, and pleading, fifteen cents for each folio.  
 Searching the records or files in his office if a copy is not required, twenty cents for the records or files of each year.  
 Administering oaths not otherwise provided for herein, twenty-five cents.  
 Recording credentials of ordination of ministers and giving certificate, one dollar.  
 Recording certificate of solemnization of marriage, fifty cents.  
 Filing and docketing transcripts of judgment from another county, or from justice's court, when but one judgment debtor, thirty cents, and twenty cents for each additional judgment debtor.  
 Entering an appeal or transcript from justice's court, sixty-five cents.  
 Entering a surrender of bail, thirty cents.  
 Issuing commission to take deposition, one dollar.  
 Issuing venire facias, one dollar.  
 Certificate of jurors' and witnesses' attendance at court, fifteen cents.  
 Entering forfeiture of recognizance, thirty cents.  
 Entering discharge of bail, thirty cents.  
 Entering a declaration to become a citizen of the United States, fifty cents.  
 A certified copy of such declaration under the seal of the court, seventy-five cents.  
 Entering the final admission of an alien to the rights of citizenship, fifty cents.  
 A certified copy thereof under the seal of the court, seventy-five cents.  
 Making docket entries of judgments, twenty cents for each judgment debtor.  
 Admission of attorneys, two dollars.  
 Taxing costs, fifty cents.  
 Certified copy of marriage record, fifty cents.  
 Certified transcript of docket entry, fifty cents.  
 Attendance on court for each day of actual session, three dollars.  
 For all other services required by law to be performed by such clerk respectively,

such fees as compare favorably with the rates herein prescribed, and as may be established by general rule or order of the court.

*Vide* S. L. 1868, 138; chapter xi. part i. *ante*.

#### FEES OF THE CLERK OF THE SUPREME COURT.

SEC. 3. *Fees of clerk of supreme court.*—For drawing a writ of error, or other process issued under seal of the court, one dollar.

Affixing the seal to any process of the court, twenty-five cents.

Filing papers, ten cents for each paper.

Reading and filing any petition relating to any proceeding in court, ten cents.

Entering the appearance or default of appellant, or plaintiff, or of defendant, or respondent, fifteen cents.

Entering every rule or order, fifteen cents for each folio.

A certified copy of every such rule or order, and of all papers, pleadings, and proceedings filed with him, ten cents for each folio.

Entering a decree or sentence, ten cents for each folio.

Entering a judgment or order, fifteen cents for every judgment debtor; ten cents for each folio more than two.

Engrossing a remittitur to be sent to a district court, ten cents for each folio.

Every certificate, twenty-five cents.

Taxing costs, fifty cents.

Entering satisfaction of record, fifteen cents.

Taking security, fifty cents.

Entering each cause in the calendar, and making copy for the bar, ten cents.

Searching records and files in his office, twenty cents for the records or files of each year.

For services required by law, or the rules of the court, not herein provided for, such fees as the court direct.

Admission of attorneys, two dollars.

#### FEES OF COMMISSIONERS TO TAKE TESTIMONY.

SEC. 4. *Fees of commissioners to take testimony.*—The person to whom any commission issues to take testimony in any action, shall receive the same fees as allowed to justices of the peace for the same services.

#### FEES OF JUDGES OF PROBATE.

SEC. 5 (AS AMENDED BY ACT OF MARCH 5, 1868). *Fees of judges of probate.*—For granting letters of administration, when not contested, three dollars.

When contested, five dollars.

Hearing any complaint, petition, or action, two dollars.

Hearing any application for the appointment of a guardian, two dollars.

Appointing a guardian, one dollar.

And when one guardian is appointed for more than one person at the same time, fifty cents for each person after the first, for whom such guardian is appointed.

Decree of probate of a will, when not contested, two dollars.

- When contested, five dollars.
- Decree for settling an estate, two dollars.
- Partition of real estate, two dollars and fifty cents.
- Warrant to appraise and divide an estate, one dollar and fifty cents.
- Issuing a commission to examine and allow claims against an estate, one dollar and fifty cents.
- Ordering an allowance to widows, or children under seven years of age, one dollar and fifty cents.
- Approving securities of executors or others, one dollar.
- Appointment of agent on partition of real estate, one dollar and fifty cents.
- Each order for sale of real estate to pay debts of an estate, two dollars.
- Each order for sale of personal estate, one dollar.
- Order for publication of any notice, or any ordinary order in proceedings before him, fifty cents.
- Granting reference of accounts of executors or administrators, or allowing report thereon, one dollar.
- Disallowing application for letters of administration or probate of will, to be paid by the party applying, two dollars.
- For a warrant to set off dower, one dollar.
- Order for distribution, one dollar and fifty cents.
- Extending time for settling an estate, fifty cents.
- Examining and allowing claims against an estate, fifty cents.
- Ordering and drawing a quietus, one dollar.
- Examining and allowing an inventory, fifteen cents for each folio.
- Administering an oath to an executor or other person, and certifying the same when necessary, fifteen cents.
- Examining and allowing accounts of executors, administrators, or other persons, for the first page, fifteen cents, and for each additional page, five cents.
- Each citation, summons, or other process, twenty-five cents.
- Approving and filing a bond given on an appeal, fifty cents.
- Each order to divide an estate among heirs, or to set off dower, twenty-five cents.
- Entering and filing a caveat, fifteen cents.
- Entering the accounts of an executor, administrator, or guardian, fifteen cents for each folio.
- Entering each oath of an executor, or administrator, fifteen cents.
- Searching the records or files in his office, for each year, fifteen cents.
- Recording wills and the proof thereof, letters of administration, of guardianship, and every other matter required to be recorded, for each folio, fifteen cents; and where any will or other matter is in, any other than the English language, eighteen cents for each folio.
- For a translation of any will from any other than the English language, twenty-five cents for each folio.
- Copies and exemplifications of the probate of a will, or of letters testamentary, or of administration, or of any other proceeding or order had or made before him, or of any other papers filed or recorded in his office, transmitted on appeal, or furnished on request to any person, fifteen cents for each folio.
- The amount of fees taxed by judge of probate, in his own behalf in any case not

contested, shall in no case exceed twenty-five dollars; unless the same is audited and certified to be just by the judge of the district court of the county.

For all services required to be performed by judges of probate for which compensation is not herein provided for, such fees as are now allowed to the clerks of the district court for like services.

S. L. 1868, 139.

#### FEES OF EXECUTORS AND ADMINISTRATORS.

SEC. 6 (AS AMENDED BY ACT OF FEBRUARY 5, 1868). *Fees of executors and administrators.*—For actual service, two dollars per day, and their actual and necessary disbursements for the benefit of the same; but the probate court may allow executors and administrators in cases of unusual difficulty or responsibility such further sum as the judge deems reasonable.

S. L. 1868, 106.

#### FEES OF WITNESSES.

SEC. 7 (AS AMENDED BY ACT OF MARCH 1, 1872). *Fees of witnesses.*—For attending in any action or proceeding pending in a court of record, one dollar for each day.

For attending in any justice's court, or before any officer, person, or board authorized to take the examination of witnesses, one dollar for each day.

For travelling, at the rate of six cents per mile, in going to and returning from the place of attendance, to be estimated from the residence of such witness, if within this state, or from the boundary line of this state, which such witness passed in coming, if his residence is out of the state: *provided*, that the judge of any court of record in this state, before whom any witness is summoned or sworn and examined as an expert in any profession or calling may, in his discretion, allow such fees or compensation as in his judgment may be just and reasonable.

S. L. 1872, 142.

SEC. 8. *Witness not obliged to attend unless fees are paid or tendered.*—No person is obliged to attend as a witness unless the fees are paid or tendered to him which are allowed by law for one day's attendance as a witness, and for travelling to and returning from the place where he is required to attend.

*Beaulieu v. Parsons*, 2 Minn. 37.

SEC. 9 (AS AMENDED BY ACT OF MARCH 3, 1870). *Fees of witnesses in criminal cases.*—Witnesses for the state in criminal cases before any court of record shall receive for such attendance one dollar for each day, and six cents per mile in going to and returning from the place of attendance. And the judges of the district court may, in their discretion, allow fees to witnesses attending in criminal proceedings on behalf of the defendant, which shall not exceed the fees allowed by law in civil actions. Such allowances shall be certified by the clerk of the court and paid in the same manner that jurors are paid.

S. L. 1870, 145.

#### SHERIFFS.

SEC. 10. *Fees of sheriffs.*—For serving a summons or any process issued by a court of law, one dollar for each defendant served.

Travelling in making any service upon any writ or summons, ten cents per mile for going and returning, to be computed from the place where the court is usually held.

Taking and approving a bond, fifty cents.

A certified copy of such bond when requested, ten cents per folio.

Copy of every summons or other paper served by the sheriff when such copy is made by him, ten cents per folio.

Collections on executions when the same is collected or settled after levy, at the rate of four per centum upon the first two hundred and fifty dollars, and two per centum upon the excess of said sum.

The fees herein allowed for the service of an execution and for advertising thereon shall be collected by virtue of such execution, in the same manner as the sum therein directed to be levied ; but when there are several executions against the defendant at the time of advertising his property, in the hands of the same sheriff, there shall be but one advertising fee charged on the whole, and the sheriff shall elect on which execution he will receive the same.

Advertising sale, one dollar, and the reasonable fees paid to any printer by such sheriff for publishing an advertisement of sale.

Posting three notices of such sale, one dollar and fifty cents.

Every certificate on the sale of real estate, two dollars, and one dollar for each copy, which, together with the register's fees for filing the same, shall be collected as other fees on execution, but no sheriff shall charge for more than one certificate issued upon the same sale to the same purchaser, unless he requires it, in which case he shall pay to said sheriff one dollar for each additional certificate.

Serving a writ of restitution or possession, and putting any person entitled into the possession of premises and removing the occupants, three dollars.

Summoning a jury upon a writ of inquiry, attending such jury, and making and returning the inquisition, one dollar and fifty cents.

Summoning a special jury, struck pursuant to an order of the court, and returning the panel, fifty cents for each juror and mileage.

Summoning a jury pursuant to any precept or summons of any officer in special proceedings, two dollars, and attending such jury when required, one dollar.

Bringing up a person on a habeas corpus to testify or answer in any court, or with the cause of his arrest and detention, or for the purpose of having him surrendered in exoneration of his bail, or attempting to receive a prisoner so surrendered who was not committed at the time and receiving such prisoner into his custody, or for committing a prisoner to jail, or for bringing any prisoner before any court for examination, in either case, one dollar ; and for traveling, the same mileage as upon service of writs and for attending before any officer or court in any such case, two dollars per day.

Attending court, three dollars per day.

Boarding prisoners, four dollars per week.

Serving attachment upon any ship, boat, or vessel, in proceedings to enforce any lien thereon created by law, three dollars, and such additional compensation for his trouble and expense in taking possession of and preserving the same as the officer issuing the warrant shall certify to be reasonable.

Selling any ship, boat, vessel, or the tackle, apparel, and furniture thereof so attached, and for advertising the same, the same fees as are allowed on executions.

Making and returning an inventory and an appraisal of property attached in any case, two dollars per day to each appraiser for each day actually employed, and one dollar for each half day.

Summoning grand or petit jurors, fifty cents for each juror summoned, and mileage at fifteen cents per mile for the number of miles necessarily traveled in summoning the panel.

Serving subpoena, fifty cents for each witness summoned and mileage as in service of a summons, but when two or more witnesses live in the same direction, mileage shall be charged only for the furthest.

Selling lands on foreclosure of mortgage by advertisement and executing certificate and deed to purchaser, and for all services required on such sale, three dollars.

Selling lands on decree by foreclosure and executing a deed, and for all services required in making such sale, when the amount for which the property sold is one thousand dollars or less, the sum of ten dollars; and when the amount exceeds one thousand dollars, the sum of fifteen dollars.

Postponing a sale, one dollar, to be paid by the party requesting the same.

Making and drafting an inventory of property levied upon, replevied, or attached, twenty-five cents for each folio, and for each copy of such inventory, ten cents per folio.

For diligent search and inquiry and returning summons when parties cannot be found, one dollar, and returning execution when no property found, one dollar.

Receiving and paying over the money paid on redemption of property, and executing certificate therefor, one per cent. on the amount so received and paid, to be collected from the party redeeming such property.

For the necessary expenses which may be incurred to secure and safely keep all property taken by the sheriff by virtue of a warrant of attachment, execution, or writ of replevin, such sum as may be allowed by the court.

For all United States revenue stamps now or hereafter required by law, to be used upon any certificate, deed, or other instrument, the cost of such stamps so used, and also such sum as may be required to be paid to the United States government as a tax on any sale made by him.

For any services not herein enumerated, which a sheriff may be required to perform, he shall receive the fees herein allowed for similar services.

*Sheriff not entitled to per diem allowance, Thomas v. Coms. Scott County, 15 Minn. 324.*

#### FEEES OF CORONERS.

SEC. 11 (AS AMENDED BY ACT OF MARCH 10, 1873). *Fees of coroners—allowance to physicians for post-mortem.*—For all services rendered by coroners they shall receive the same fees allowed to sheriffs for like services, and for an inquest or examination of a dead body, they shall receive five dollars per day for the time actually spent, and ten cents per mile to and from the place where such inquest or examination shall take place. There shall be allowed to physicians called by the coroner to make any professional post-mortem examination, six dollars per day and ten cents per mile for actual distance traveled in going to and from the place of holding such inquest or examination.

S. L. 1873, 165; *vide* also S. L. 1871, 160.

## FEES OF CONSTABLES.

SEC. 12. *Fees of constables.*—Constables shall receive the following fees :

For serving a warrant or other writ, not herein provided for, on each person named therein, twenty-five cents.

For a copy of every summons delivered on request, or left at the place of residence of defendant, fifteen cents.

Serving a subpoena or summons, on each party or name therein, fifteen cents.

Serving an attachment, fifty cents.

Each copy of an attachment, fifteen cents.

Each copy of inventory of property seized on attachment, fifteen cents.

Serving summons on garnishee, fifty cents.

Copy of any affidavit or other paper not otherwise enumerated, per folio, ten cents.

Posting each notice, fifteen cents.

Attending on justice's court when required by the justice, one dollar per day.

Serving any process or paper authorized to be served by them, for travel, ten cents per mile, both going to and returning from the place of service.

Committing to prison, fifty cents.

Summoning a juror, one dollar.

Writing a list of jurors, fifteen cents.

Attending on a jury, fifty cents.

On all sums made on execution and paid over, charged upon the defendant, five per cent.

Serving every writ of replevin, fifty cents.

Summoning and swearing appraisers, and taking appraisement, fifty cents.

Taking and approving security in any case, twenty-five cents.

SEC. 13. *Any person performing services specified in last section, entitled to same fees.*—When the services mentioned in the last section are performed by the sheriff or any other person, the same fees shall be allowed that constables are entitled to receive.

## FEES OF NOTARIES PUBLIC.

SEC. 14. *Fees of notaries public.*—For drawing and copy of protest of the non-payment of a promissory note, or bill of exchange, or of the non-acceptance of such bill, one dollar, in the cases where by law such protest is necessary.

For drawing, and a copy of every other protest, fifty cents.

For drawing, copy, and serving every notice of non-payment of note or non-acceptance of a bill, fifty cents.

Drawing any affidavit or other paper or proceeding, for which provision is not herein made, twenty cents for each folio, and copying the same, six cents for each folio.

For each oath administered, twenty-five cents.

Taking the acknowledgment of deeds, and for other services authorized by law, the same fees as are allowed to other officers for similar services.

Recording each instrument required by law to be recorded by him, ten cents per folio.



## FEES OF JUSTICES OF THE PEACE.

SEC. 15 (AS AMENDED BY ACT OF MARCH 7, 1867). *Fees of justices of the peace.*—Justices of the peace shall receive the following fees, and may tax the same in all cases where applicable:

For a summons, warrant, or subpoena, twenty-five cents.

For a venire for a jury, twenty-five cents.

For a warrant in a criminal case, twenty-five cents.

Taking a recognizance of bail, twenty-five cents.

Administering an oath, fifteen cents.

Certifying the same when administered out of court, fifteen cents.

For a writ of attachment, twenty-five cents.

Entering a judgment, twenty-five cents.

Every adjournment, fifteen cents.

Every bond, recognizance, or security directed by law to be taken and approved by the justice, twenty-five cents.

Swearing a jury, twenty-five cents.

Taking an examination, deposition, or confession, per folio, fifteen cents.

For copy of proceedings, or of any paper or examination, in any case when demanded, per folio, fifteen cents.

Entering a satisfaction of judgment, twenty-five cents.

Issuing commission to take testimony, fifty cents.

Entering any order or exceptions thereto, fifteen cents.

Entering amicable suit without process, twenty-five cents.

For a transcript of judgment, twenty-five cents.

Opening of judgment for rehearing, twenty-five cents.

Filing every paper required to be filed, five cents.

Issuing notice to take deposition, twenty-five cents.

Taking recognizance, certifying oath, or affidavit, and making return to an appeal, including travel, two dollars.

For a search warrant, twenty-five cents.

For every affidavit, or other paper drawn by the justice, for which no other allowance is made by law, per folio, fifteen cents.

For a commitment to jail, twenty-five cents.

For an order to bring up prisoner, twenty-five cents.

For an order to discharge prisoner, issued to jailor, twenty-five cents.

Discharging a prisoner after a hearing, on motion to discharge, fifteen cents.

For an execution, twenty-five cents.

For every other writ not herein enumerated, twenty-five cents.

Taxing costs, fifteen cents.

For marrying and making return thereof, one dollar and fifty cents, and such other sum as may be allowed by the party making the application.

Holding an inquisition, in cases of forcible entry and detainer, in addition to other fees, one dollar.

Taking and certifying the acknowledgment of a deed, for each grantor named therein, twenty-five cents.

For traveling to perform any duty, when not otherwise provided for, and such travel is necessary, going and returning, per mile, ten cents.

S. L. 1867, 135.

PROVISIONS IN RELATION TO FEES IN JUSTICES' COURTS.

SEC. 16. *Costs in justices' courts.*—In all civil actions, unless otherwise provided, the party in whose favour judgment is given, shall recover costs.

SEC. 17. *Justice may tax costs without notice given.*—At the time of entering a judgment for costs, in any case, the justice may proceed to tax the costs, and no notice of such taxing need be given to the party against whom judgment is rendered.

SEC. 18. *Fees of witnesses to be proved.*—The justice shall allow no fees for the travel of witnesses unless the same is proved by the oath of some person qualified to testify in the action.

SEC. 19. *Fees allowed for travel, when.*—No fees shall be allowed for travel in serving a subpoena, unless the same is charged by a constable or sheriff, or is proved by the oath of the person who served the same.

SEC. 20. *Fees allowed of only two witnesses to same fact.*—The attendance of only two witnesses to each particular fact before a justice of the peace, shall be taxed in the bill of cost.

SEC. 21. *Fees for copies not allowed unless copies were used.*—No fees for copies, or exemplifications of documents or papers, or for depositions, shall be allowed, unless such copies of depositions were used upon the trial.

SEC. 22. *Items of disbursements to be specified.*—No allowance for disbursements, except to officers, shall be allowed, unless the items are particularly specified, and proved to the justice, and the same were, in the opinion of the justice, necessary and reasonable in amount.

SEC. 23. *Justice may hear evidence.*—The justice shall hear any evidence which may be offered to him, to prove that any charge is unreasonable, or that the service has not been rendered.

FEES OF REGISTERS OF DEEDS.

SEC. 24. *Fees of registers of deeds.*—For entering or recording any deed, or other instrument, twelve and a half cents for each folio, to be paid when the same is left for record.

For every certificate, twenty-five cents.

For copies of any records or papers, when required, ten cents for each folio.

For recording any deed or other paper, in any other than the English language, twenty cents for each folio.

Every entry of a discharge of mortgage, in the margin of the record, ten cents.

Filing every other paper, and making an entry thereof when necessary, ten cents.

Searching for every such paper, on request, five cents for every paper examined.

Searching the record, ten cents.

For an abstract of title, twenty-five cents for every transfer, and fifty cents for his certificate.

## FEES OF COURT COMMISSIONERS.

SEC. 25 (ACT OF FEB. 7, 1868). *Fees of court commissioners in certain cases.*—Court commissioners, for services mentioned in this chapter (act), shall be allowed the following fees :

For examining any petition, complaint, affidavit, or other paper wherein an order is required, one dollar.

For making and entering an order on the same, fifty cents.

For taking bail or approving sureties on any bond or recognizance, fifty cents.

For hearing and deciding on the return of a writ of *habeas corpus*, three dollars for each day necessarily occupied in the hearing of the same.

For all other services rendered by them, the same fees as allowed by law to other officers for similar services.

S. L. 1868, 139.

## FEES OF REFEREES.

SEC. 26 (25). *Fees of referees.*—The fees of referees are five dollars to each for every day spent in the business of the reference, but the parties may agree, in writing, upon any other rate of compensation, and thereupon such rate shall be allowed.

## FEES OF APPRAISERS, COMMISSIONERS, AND OTHERS.

SEC. 27 (26). *Fees of appraisers, commissioners, and others.*—All appraisers of estates of deceased persons, appraisers of property taken on writ of attachment or replevin, persons appointed under a legal process, or order for assigning dower, or making a partition of real estate, sheriff's aids in criminal cases, and all other private persons performing any other like service required by law, or in the execution of legal process, where no express provision is made for compensation therefor, shall be entitled to one dollar for each day for their services, and five cents a mile for travel in going and returning.

## FEES OF JURORS.

SEC. 28 (27, AS AMENDED BY ACT OF MARCH 3, 1870). *Fees of jurors—not applicable to Ramsey county.*—Each grand and petit jury shall be entitled to two dollars for each day's attendance upon any district court, and ten cents for each mile traveled in going to and returning from the said court, the distance to be computed by the usual traveled route, and paid out of the county treasury of the county in which the service was rendered. The clerk of the district court shall deliver to each juror a certificate for the number of days attendance and miles traveled, for which he is entitled to receive compensation. Each juror sworn before any coroner, on any inquest taken by him, is entitled to one dollar for each day's attendance on such inquest. Each juror sworn in any action pending in a justice court, or before any sheriff on a writ of inquiry, is entitled to fifty cents, to be paid in the first instance by the party requiring such juror: *provided*, that the certificate of the clerk for services rendered as such juror, in the district court or by the coroner, shall be filed with the county auditor, who shall issue his warrant

on the treasurer of his county for the amount due, which certificate shall be a proper and sufficient voucher for the issuance of said warrant: *provided, further*, that the provisions of this act in relation to the amount allowed jurors in the district court shall not apply to the county of Ramsey.

S. L. 1870, 148. *Vide* also S. L. 1868, 133; and for fees of jurors in Ramsey Co., S. L. 1870, 160.

#### FEES OF PRINTER.

SEC. 29 (28, AS AMENDED BY ACT OF MARCH 5, 1869). *Fees of printer.*—For publishing any notice, or any order, citation, summons, or any other proceeding or advertisement, required by law to be published in any newspaper, not more than seventy-five cents per folio for the first insertion, and thirty-five cents per folio for each insertion after the first, and for the purpose of computing the same, a folio is hereby declared to be equal to the space occupied by two hundred and fifty ems of solid matter of the kind of type used.

S. L. 1869, 96.

#### FEES OF ATTORNEY IN FORECLOSURE OF MORTGAGE.

SEC. 30 (ACT OF MARCH 3, 1873). *Allowances in detail for attorney's fee.*—In all cases and whenever any mortgage hereinafter executed, covering any lands in this state, shall contain any covenant on the part of the mortgagor, to pay any sum as an attorney's or solicitor's fee in case of the foreclosure of such mortgage, or when any such mortgage shall contain any stipulation or provision, authorizing or empowering the mortgagee in case of any sale of the mortgaged premises, either upon foreclosure by action or by advertisement, to retain any sum whatever as an attorney's or solicitor's fee, the amount of such fee contained in such mortgage shall not exceed the following sums, to wit: when the amount of the debt secured by such mortgage shall not exceed the sum of five hundred dollars, the amount of such attorney's or solicitor's fee shall not exceed the sum of twenty-five dollars; when the amount of such debt shall exceed the sum of five hundred dollars, and shall not exceed the sum of one thousand dollars, the amount of such fee shall not exceed the sum of fifty dollars; when the amount of such debt shall exceed the sum of one thousand dollars, and shall not exceed the sum of five thousand dollars, the amount of such fee shall not exceed the sum of seventy-five dollars; when the amount of such debt shall exceed the sum of five thousand dollars, and shall not exceed the sum of ten thousand dollars, the amount of such fee shall not exceed the sum of one hundred dollars; when the amount of such debt shall exceed the sum of ten thousand dollars, the amount of such fee shall not exceed the sum of two hundred dollars; and in all cases where any such mortgage shall contain any covenant to pay, or shall in any manner authorize or permit the retaining or application of any greater sum as an attorney's or solicitor's fee in case of the foreclosure of such mortgage, than as is herein provided, such covenant or authority shall be void for the excess of such fee above the fee herein provided; and no such excess whatever shall be collected, retained, or applied by virtue of anything in such mortgage contained.

SUB-DIV. 2. *In foreclosures without attorney, no sum allowed as a fee.*—In

all cases where any mortgagee, or his heirs, executors, administrators, or assigns, shall foreclose any mortgage without the employment of an attorney of the courts of record of this state to conduct such foreclosure, such mortgagee or other person shall not be entitled to collect, demand, receive, or retain any sum whatever as an attorney's or solicitor's fee; and in all such cases where any sum whatever as or for such fee is included in or made a part of the amount of the bid upon which the mortgaged premises are sold, the amount of such fee so included in such bid shall be paid in money by the purchaser to the sheriff or other officer making such sale before the certificate of such sale shall be executed, and shall be by such sheriff or other officer paid to the mortgagor or those having his estate in the mortgaged premises.

**SUB-DIV. 3.** *Lawful fees may be collected.*—Where any such mortgage shall contain any covenant to pay, or any stipulation or provision authorizing or empowering the mortgagee in case of any foreclosure sale of the mortgaged premises to retain any sum such as is in this act provided as an attorney's or solicitor's fee, such mortgagee or his heirs, executors, administrators, or assigns shall be entitled to collect or retain such fee upon the foreclosure of such mortgage, either by action or advertisement.

S. L. 1873, 168.

Act took effect from and after May 1, 1873.

#### GENERAL PROVISIONS.

**SEC. 31 (29).** *Officers to set up table of fees—penalty for neglect.*—Every officer whose fees are herein fixed, shall publish and set up in his office, fair tables of his fees, according to this chapter, in some conspicuous place, for the inspection of all persons who have business in such office; upon pain of forfeiting for each day the same shall not be put up through such officer's neglect, a sum not exceeding two dollars, which may be recovered by a civil action, in the name of any person, before any justice of the peace of the same county.

Statute a penal one, *Kennedy v. Raught*, 6 Minn. 235.

**SEC. 32 (30).** *Justices et als. not to take illegal fees.*—No judge, justice, sheriff, or other officer whatever, or other person to whom any fees or compensation is allowed by law for any service, shall take or receive any other greater fee or reward for such service than is allowed by the laws of this state.

**SEC. 33 (31).** *Fees not allowed unless service was actually performed.*—No fee or compensation allowed by law shall be demanded or received by any officer or person, for any service, unless such service was actually rendered by him, except in the case of prospective costs hereinafter specified.

**SEC. 34 (32).** *Penalty for violation of last two sections.*—A violation of either of the last two sections is a misdemeanor; and the person guilty thereof shall be liable to the party aggrieved for treble the damages sustained by him.

**SEC. 35 (33).** *Fees of officers rendered in progress of cause taxable, when.*—No fees shall be taxed for services as having been rendered by any clerk, sheriff, or other officer in the progress of a cause, unless such service was actually rendered, except when otherwise expressly provided.

**SEC. 36 (34).** *Prospective costs taxable, when.*—Prospective costs may be charged and taxed for filing orders, docketing judgment, and for one execution.

SEC. 37 (35). *Fees for certified copies of papers used on trial of cause, to be allowed.*—The legal fees paid for certified copies of the depositions of witnesses, filed in any clerk's office, and of any documents or papers recorded or filed in any public office, necessarily used on the trial of a cause, or on the assessment of damages, shall be allowed in the taxation of costs.

SEC. 38 (36). *Attorney in a cause not entitled to fees as witness.*—No attorney, or counsel, in any cause, shall be allowed any fee for attending as a witness in such cause.

SEC. 39 (37). *Officer to give account of fees if required—penalty for failure.*—Every officer, upon receiving any fees for any official duty or service, shall, if required by the person paying the same, make out in writing, and deliver to such person, a particular account of such fees, specifying for what they respectively accrued, and shall receipt the same; and if he refuses or neglects to do so, he shall be liable to the party paying the same for three times the amount so paid.

SEC. 40 (38). *Officers performing similar services entitled to same fees.*—When a fee is allowed to one officer, the same fees shall be allowed to other officers for the performance of the same services, when such officers are by law authorized to perform such services.

SEC. 41 (39). *Witness in criminal cause may have allowance, when.*—When any person shall attend a court of record as a witness in behalf of the state of Minnesota, upon request of the public prosecutor, or upon a subpoena, or by virtue of a recognizance for that purpose, and it appears that such person has come from any other state or territory of the United States, or from any foreign country, or that such person is poor, the court may, by order on its minutes, direct the county treasurer of the county in which the court shall be sitting to pay to such witness such sum of money as shall seem reasonable for expenses.

SEC. 42 (40). *Fees paid out of county treasury, when.*—When any prosecution, instituted in the name of this state, for breaking any law thereof, fails, or when the defendant proves insolvent or escapes, or is unable to pay the fees when convicted, the fees shall be paid out of the county treasury, unless otherwise ordered by the court.

SEC. 43 (41). *Witnesses compelled to attend without payment of fees in advance, when—penalty for failing to attend.*—The attorney general, or county attorney in each county, is authorized to issue subpoenas, and compel the attendance of witnesses, on behalf of the state or county, without paying or tendering fees in advance, and in criminal cases the witnesses for the defendant shall also be compelled to attend without payment or tender of fees in advance, and any witness failing or neglecting to attend, after being served with a subpoena, may be proceeded against, and shall be liable in the same manner as provided by law in other cases where fees have been paid or tendered.

SEC. 44 (42). *Clerk to certify amount of fees, when.*—The clerk of any court, at which any witness has attended on behalf of the state, in a civil action, shall give to such witness a certificate of travel and attendance, which shall entitle him to receive the amount from the treasurer of the county where the action arises.