

THE
STATUTES AT LARGE
OF THE
STATE OF MINNESOTA

COMPRISING

THE GENERAL STATUTES OF 1866

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

TOGETHER WITH

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

WITH REFERENCES TO

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

TO WHICH ARE PREFIXED

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

VOL. I.

COMPILED AND ARRANGED BY

A. H. BISSELL

ATTORNEY-AT-LAW

CHICAGO
CALLAGHAN AND COMPANY

1873

CHAPTER VII.
OF NOTARIES PUBLIC.

(Chapter XXVI. of the Statutes of 1866.)

- SEC.
1. Governor may appoint with consent of senate.
2. Term of office—bond.
3. Seal—register.
4. Powers of notaries.
5. Commission to be recorded—clerk of court to give certificate—when.
6. Penalty for acting after expiration of term of office.

- SEC.
7. Repealed.
8. Protest of notes and bills—how made.
9. Instrument of protest—evidence.
10. Power of notary as to witnesses in certain cases.
11. Penalty for taking illegal fees and neglect of duty.

SECTION 1. *Governor may appoint.*—The governor is authorized to appoint and commission as notaries public, by and with the advice and consent of the senate, as many persons having the qualifications of electors, and resident in the several counties of this state, as he deems necessary.

SEC. 2. *Term of office—bond.*—Each notary public, so appointed and commissioned, shall hold his office for the term of two years, unless sooner removed by the governor or the district court; and before entering upon the duties of his office, he shall give a bond to the state of Minnesota, in the sum of two thousand dollars, with sureties to be approved by the governor, conditioned for the faithful discharge of the duties of his office, and he shall take and subscribe the oath required by law, and the same with his bond shall be deposited in the office of the secretary of state.

SEC. 3. *Seal—register.*—Each notary public, before entering upon the duties of his office, shall provide himself with the proper official seal, with which he shall authenticate his official acts, upon which shall be engraved the arms of this state, the words “notarial seal,” and the name of the county in which he resides, which seal, together with his official register, shall be exempt from execution; and on the death or removal from office of such notary public, his register shall be deposited in the office of the clerk of the district court of the county in which such notary resides.

SEC. 4. *Powers of notaries.*—Each notary public so appointed, commissioned, and qualified, shall have power throughout this state, while residing within the county for which he was appointed, to administer all oaths required or authorized by law to be administered in this state, to take and certify depositions to be used in any of the courts of this state, to take and certify to all acknowledgments of deeds, mortgages, liens, powers of attorney, and other instruments in writing, and to receive, make out, and record notarial protests.

Young v. Young, 18 Minn. 90 (cannot delegate his power); 3 Hill, 53; 4 *ib.* 129.

SEC. 5. *Commission to be recorded—certificate to be given—when.*—Any notary public appointed under the provisions of this act shall have his commission recorded by the clerk of the district court of the county in which he resides, and for which he was appointed; or of the county to which such county is attached for judicial purposes, in a book provided by the several clerks for that purpose, on payment to the clerk of one dollar for recording the same; and the clerk shall, upon having recorded such commission, and when thereunto requested, certify to the official acts of such notary public, whose commission is so recorded, in the same manner, and for the

same fees allowed by law for similar certificates to authenticate acts of justices of the peace.

SEC. 6. *Penalty for acting after expiration of term of office.*—Any notary public exercising the duties of his office after the expiration of his commission or term of office, or when otherwise disqualified, or appending his official signature to acknowledgments or other documents when the parties executing the same have not appeared before him, is guilty of a misdemeanor, and shall be fined not to exceed one hundred dollars for each offense, to be recovered before any justice of the peace of the county, upon complaint, under oath, of any person; and, upon conviction thereof, his term of office shall cease.

SEC. 7 (REPEALED BY ACT OF MARCH 4, 1871).

S. L. 1871, 109.

SEC. 8 (AS AMENDED BY ACT OF MARCH 3, 1868). *Protest of notes and bills—how limited.*—Every notary public, when any bill of exchange or promissory note is by him protested for non-acceptance or non-payment, shall give notice thereof, in writing, to each party protested against, immediately after such protest is made, and such notice may in all cases be given by depositing the same in the post office, postage paid, and directed to the party protested against, at his reputed place of residence; and the notary shall in such instrument of protest, certify to the time and manner of the service of such notice upon the several parties so protested against, and shall make a record of such instrument of protest in his official register, which record, or a duly certified copy thereof, shall be *prima facie* evidence of the facts therein contained.

S. L. 1868, 66. *Kern v. Van Phul*, 7 Minn. 426. *Vide also* 7 Wis. 161; 13 Wis. 504; 19 Wis. 390.

SEC. 9. *Instrument of protest—evidence.*—The instrument of protest of any notary public, appointed and qualified under the laws of this state, or the laws of any other state or territory of the United States, accompanying any bill of exchange or promissory note, which has been protested by such notary for non-acceptance or for non-payment, shall be received in all the courts of the state as *prima facie* evidence of the facts therein certified, but any party may contradict, by other evidence, any such certificate.

SEC. 10. *Powers of notaries as to witnesses in certain cases.*—In taking depositions, he shall have the same power to compel the attendance of witnesses, and punish witnesses for refusing to testify, which may be vested by law in justices of the peace; and all sheriffs and constables, and sheriffs in this state, are hereby required to serve and return all process issued by such notaries in taking depositions.

SEC. 11 (AS AMENDED BY ACT OF MARCH 7, 1867). *Penalty for taking illegal fees and neglect of duty.*—Any notary public who charges or receives any fee or reward for any act or service done or rendered by him under this chapter greater than the amount limited by law, or who dishonestly or unfaithfully discharges his duties as notary public, shall on complaint filed and substantiated in like manner as in other cases in the district court of the county in which he resides, be removed from his said office by such court, and the court shall thereupon certify the fact of such removal to the governor, and the party so removed shall be thereafter ineligible to a re-appointment to the office of notary public in this state.

S. L. 1867, 142.