

THE
GENERAL STATUTES

OF THE
STATE OF MINNESOTA

As Amended by Subsequent Legislation, with which are Incorporated
All General Laws of the State in Force December 31, 1894

COMPILED AND EDITED BY
HENRY B. WENZELL, Assisted by EUGENE F. LANE

WITH ANNOTATIONS BY
FRANCIS B. TIFFANY and Others

AND A GENERAL INDEX BY THE EDITORIAL STAFF OF THE NATIONAL
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[CHAPTER 126.]

[CULTIVATION OF TIMBER AND HEDGES.]

For act authorizing application for bounty up to July 31, 1879, see Laws 1879, c. 96.
 For act authorizing fencing of unused streets for five years from date of act for purpose of protecting shade trees, see Laws 1877, c. 132.
 For act appropriating \$5,000 to State Forestry Association, see Laws 1883, c. 110.
 For act appropriating \$2,000 to State Forestry Association, see Laws 1889, c. 54.
 Laws 1878, c. 82, repealed by Laws 1889, c. 52.

§ 7853. Annual appropriation to encourage growing of timber, etc.

That for the purpose of encouraging the growing or cultivation of timber and live hedge fences in this state, there shall be annually appropriated, out of any moneys in the treasury belonging to the general revenue fund, not otherwise appropriated, the sum of three hundred dollars.

(1867, c. 32, § 1; ¹ G. S. 1878, c. 124, § 64.)

§ 7854. Same — At disposal of state agricultural society.

That the said sum is hereby placed at the disposal of the state agricultural society of this state, for the payment of premiums for the best five acres of cultivated timber, or continuous half mile of live hedge fence, or a less amount if deemed necessary; provided, that the said society shall make such classifications and regulations as may be deemed most expedient to encourage the largest competition, and all awards of premiums made under this act shall be impartial.

(1867, c. 32, § 2; G. S. 1878, c. 124, § 65.)

§ 7855. To apply to timber subsequently grown—One first class premium only allowed.

That the provisions of this act shall apply only to timber or groves and hedges, propagated from seeds, cuttings, or layers subsequent to the passage of this act; and no person shall be entitled to more than one first class premium on the same piece of timber or hedge.

(1867, c. 32, § 3; G. S. 1878, c. 124, § 66.)

§ 7856. Entrance fee for competitors — Competition to be encouraged.

That the said society shall fix the rate of entrance fee of those wishing to compete for premiums under this act at a reasonable amount; and in order to encourage competition, said society may appoint person or persons, in each county, whose duty it shall be to visit the premises of persons competing for premiums in such county, and make out an accurate report of the condition, mode of cultivation and propagation of the timber or hedge growing on the said premises, which report shall be made in accordance with instructions from said society, and shall be attested under oath or affirmation.

(1867, c. 32, § 4; G. S. 1878, c. 124, § 67.)

§ 7857. Society to keep account of premiums and report same to governor.

That said society shall cause an accurate account to be kept of all sums paid as premiums in accordance with this act, together with a list of persons competing for premiums, and to whom such premiums were paid, with the amount thereof, and shall annually, on or before the first Monday in February, make a true report of the same to the governor of the state; which report, together

¹An act to encourage the cultivation of timber and hedge fence, and to appropriate money therefor. Approved March 7, 1867.

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with a certificate of the correctness thereof, shall be signed by the president and secretary of said society.

(1867, c. 32, § 5; G. S. 1878, c. 124, § 68.)

§ 7858. Fences in streets to protect hedges.

That 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.

(1867, c. 34, § 1; G. S. 1878, c. 124, § 69.)

See *Smith v. County of Nobles*, 37 Minn. 535; 35 N. W. Rep. 383.

§ 7859. Bounty for tree planting.

That any person who has heretofore or shall hereafter plant, cultivate and keep in a growing, thrifty condition one acre and not more than ten acres of prairie land with any kind of forest trees, except black locust, and shall plant, or have planted, said trees not more than eight feet apart each way, and maintain them at that distance by replanting each year any that may die, shall be entitled to compensation at the rate of two dollars and fifty cents per acre for a period of six years. Provided, that this act shall not apply to any railroad company planting trees within two hundred feet of its track, nor to any person planting trees in compliance with an act of congress entitled: "An act to encourage the growth of timber on western prairies," approved March three, eighteen hundred and seventy-three, or any act amendatory thereto; provided, further, that this act shall not apply to any person who has received bounty under said section seventy.

(1873, c. 19, § 1; G. S. 1878, c. 124, § 70; as amended 1885, c. 54; 1889, c. 78.)

§ 2, c. 78, Laws 1889, repeals "all acts and parts of acts inconsistent" therewith.

§ 7860. Proceedings to obtain bounty.

Any person wishing to secure the benefits of this act shall file with the county auditor of the county in which the land is located a correct plat of such grove or line of trees, and designate the same by metes and bounds, giving the subdivision on which the same is located, according to government survey, and if such grove or line of trees is extended, supplemental plats of such extension, made out in like manner, shall be filed from time to time, as such extension is made. Such applicant for compensation shall also make proof of the ownership of the land and of the planting and maintaining of the requisite number of trees, and at the proper distance, as above specified, and of the cultivation and maintenance in a thrifty, growing condition of the same, as within provided, to be verified by the claimant, and supported by the affidavit of at least two freeholders, residents of the same town, who have personal knowledge of the facts, which proof is to be filed with the county auditor of the county between the first and fifteenth days of July of the year for which compensation is claimed. Such proof shall be made in such form and on such blanks as shall be prescribed by the Minnesota Forestry Association, in conformity with the spirit of this act.

(1881, c. 151, § 2; G. S. 1878, v. 2, c. 124, § 73c.)

The remaining sections of this act appear to take the place of and supersede Laws 1873, c. 19, §§ 2 and 3 (G. S. 1878, c. 124, §§ 71, 72).

§ 7861. Examination and report by assessor.

It is hereby made the duty of the assessor of every town, at the time of making his assessment, to ascertain whether or not trees have been planted by any land-owner in his town, and for which compensation is claimed under this act; and in case trees have been planted, and such compensation is claimed, the assessor shall personally examine the grove or line of trees, and make report of the extent and condition thereof, according to the prescribed

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form, the same to be returned to the county auditor with the other returns and assessment book.

(1881, c. 151, § 3; G. S. 1878, v. 2, c. 124, § 73d.)

§ 7862. County auditor—Examination—Report to state auditor.

The county auditor shall thereupon, and before the first day of August each year, compare the proof furnished by the owner of the grove or line of trees with the assessor's report thereof, and if the same correspond in substance he shall immediately forward to the state auditor a certified list of all plats filed, and proofs of planting, cultivation, and maintenance found correct as aforesaid.

(1881, c. 151, § 4; G. S. 1878, v. 2, c. 124, § 73e.)

§ 7863. Warrants for bounty—Limitation of aggregate compensation.

If the state auditor finds that the provisions of this act have been complied with, he shall issue to the several claimants entitled to compensation his warrant upon the state treasurer for the amount to which such claimant is entitled under this act, on the first Monday in October each year: *provided*, that if the aggregate of the compensation so applied for shall, in any one year, exceed the amount of money in the hands of the state treasurer belonging to the state forestry fund, then it shall be the duty of the state auditor to ascertain the amount of money in said fund, and on the first Monday of October in such year equitably distribute such sum among the claimants, and to issue no warrant to any claimant for a larger sum than his *pro rata* share under said distribution, and his warrant for such *pro rata* shall relieve the state and said fund from further claim for such year.

(1881, c. 151, § 5; G. S. 1878, v. 2, c. 124, § 73f.)

§ 7864. Forestry fund—Limitation of expenditure.

For the purpose of paying the compensation provided for in this act, a general tax of one-tenth of one mill on the assessment of all the real and personal property in the state shall be annually levied by the state auditor, in the same manner as state taxes. The moneys collected from such tax shall be designated the state "forestry fund," shall be separately kept and accounted for, and shall be collected in the same manner and by the same persons as are other state taxes, and paid into the state treasury. The state treasurer shall place all moneys collected from said tax to the credit of said fund, and no payments shall be made therefrom except for the redemption of the state auditor's warrants, issued as hereinbefore provided, and as provided in the following section:* *provided*, that no more than twenty thousand dollars shall be expended for said purpose in any one year.

(1881, c. 151, § 6; G. S. 1878, v. 2, c. 124, § 73g.)

*The "following section" merely provides that the act shall take effect from and after its passage.

§ 7865. Sale of foreign grown trees, etc., unlawful, when.

It shall be unlawful for any person, corporation or association, to sell or offer for sale any tree, plant, shrub, or vine not grown in the state of Minnesota without first filing with the secretary of state an affidavit setting forth his name, age, occupation, and residence, and, if an agent, the name, occupation, and residence of his principal, and a statement as to where the nursery stock aforesaid to be sold is grown, together with a bond to the state of Minnesota, in the penal sum of two thousand dollars, conditioned to save harmless any citizen of this state who shall be defrauded by any false or fraudulent representations as to the place where such stock sold by such person, corporation, or association was grown, or as to its hardiness for climate: *provided*,

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that the bond aforesaid shall, when the principal is a resident of this state, be given by such principal, and not by the agent.

(1887, c. 196, § 1; ² G. S. 1878, v. 2, c. 124, § 731.)

Laws 1887, c. 196, violates U. S. Const. art. 1, § 8, providing that Congress shall have power to regulate commerce between the states, and also U. S. Const. art. 4, § 2, providing that the citizens of each state shall be entitled to all the privileges and immunities of citizens in the several states. In re Schlechten, 68 Fed. Rep. 695.

§ 7866. Certificate.

The secretary of state shall, on the full compliance with the foregoing provisions, give to the applicant aforesaid a certificate under his official seal, setting forth in detail the facts showing a full compliance by said applicant with the provisions of this act, and said applicant shall exhibit the same, or a certified copy thereof, to any person to whom stock is offered for sale.

(1887, c. 196, § 2; G. S. 1878, v. 2, c. 124, § 73m.)

§ 7867. Contracts for sales.

Any person, whether in the capacity of principal or agent, who shall sell or offer for sale any foreign grown nursery stock within this state, shall furnish to the purchaser of such stock a duplicate order, with a contract specifying that such stock is true to name and as represented.

(1887, c. 196, § 3; G. S. 1878, v. 2, c. 124, § 73n.)

§ 7868. Unauthorized sales, etc.—Penalty.

Any person, whether in the capacity of principal or agent, who shall sell or offer for sale any foreign grown nursery stock within this state without complying with the requirements of this act, or shall refuse to exhibit the certificate mentioned in section two of this act, whenever demanded, or shall, by means of any advertisement, circular, notice, or statement, printed or written, published or posted, or circulated by the agency of any officer, agent, or other person, or by any other means shall falsely represent to any person or to the public that said nursery stock is grown in the state, and is hardy, and is adapted to this climate, shall be deemed guilty of a misdemeanor, and upon conviction thereof by any court of competent jurisdiction shall be punished by a fine of not less than twenty-five nor exceeding one hundred dollars, or by imprisonment in the county jail for a term of not less than ten nor more than sixty days, in the discretion of the court, and shall be liable to the party injured in a civil action for treble the amount of damages sustained, and such party in such civil action may sue in his own name on said bond for the amount of such damages.

(1887, c. 196, § 4; G. S. 1878, v. 2, c. 124, § 73o.)

² An act to prevent the practice of fraud by tree planters and commission men in the sale of nursery stock. Approved March 8, 1887.