

THE 79
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
REPORTER SYSTEM

COMPLETE IN TWO VOLUMES

VOL. 1

CONTAINING THE CONSTITUTION OF THE UNITED STATES, THE ORDINANCE OF 1787,
THE ORGANIC ACT, ACT AUTHORIZING A STATE GOVERNMENT, THE STATE
CONSTITUTION, THE ACT OF ADMISSION INTO THE UNION, AND

Sections 1 to 4821 of the General Statutes

ST. PAUL, MINN.
WEST PUBLISHING CO.

1894

CHAPTER 6.

STATE OFFICERS.¹

1. Governor, §§ 298-304.
2. Secretary of State, §§ 305-318.
3. Auditor, §§ 319-333.
4. Treasurer, §§ 339-353.
5. Attorney General, §§ 354-364.
6. Librarian, §§ 365-373.
7. Clerk of the Supreme Court, §§ 374-378.
8. Janitor.
9. Railroad and Warehouse Commission, §§ 379-403.
10. Commissioner of Statistics, §§ 404-409.
11. Public Examiner, §§ 410-424.
12. State Board of Health and Vital Statistics, §§ 425-443.
13. Inspector of Illuminating Oils, §§ 444-453.
14. State Board of Corrections and Charities, §§ 459-464.
15. State Land Agent, §§ 465-468.
16. Bureau of Labor, §§ 469-479.
17. Board of Inspectors of Steam Vessels and Steam Boilers, §§ 480-494.
18. Board of State Capitol Commissioners, §§ 495-503.
19. Funding Commission, §§ 509-518.
20. Payments from Revenue Fund, §§ 519-524.
21. Board of Auditors, §§ 525-529.

TITLE 1.

GOVERNOR.²

§ 298. Governor custodian of state property.

The governor is the legal custodian of all the property of the state not specially entrusted to other officers by law; and is authorized and empowered to take summary possession of such property without any process of law; and to adopt such measures as he deems proper to preserve it from injury or deterioration. (G. S. 1866, c. 6, § 1; G. S. 1878, c. 6, § 1.)

§ 299. Shall appoint day of thanksgiving.

He shall by proclamation set apart one day in each year, as a day of solemn and public thanksgiving to Almighty God for his blessings to us as a state and nation; and no business shall be transacted on that day at any of the departments of state. (G. S. 1866, c. 6, § 2; G. S. 1878, c. 6, § 2.)

§ 300. Shall convene extra session by proclamation.

Whenever he convenes an extra session of the legislature, he shall do so by proclamation, giving such notice as he deems necessary to inform the members of the legislature of the time of assembling; and when assembled, he shall state to them the purposes for which they are convened. (G. S. 1866, c. 6, § 3; G. S. 1878, c. 6, § 3.)

¹ See, also:

- | | |
|--|---|
| Sections | Sections |
| 1702. For adjutant general. | 6172. For state board of examiners in law. |
| 1705. For military store-keeper. | 6999 et seq. For state dairy commissioner. |
| 2149 et seq. For board of game and fish commissioners. | 7450-7452. For board of managers of state prison. |
| 3144-3156. For insurance commissioner. | 7674-7678. For state weigh-master of weighing grain and assistants. |
| 3718-3738. For superintendent of public instruction. | 7680-7687. For chief inspector of grain. |
| 3305-3376. For high school board. | 7891. For state board of medical examiners. |
| 3830-3831. For board of administration of farmers' institutes. | 7907. For state board of dental examiners. |
| 3904. For board of regents of the University of Minnesota. | 7926. For state board of pharmacy. |
| 3959 et seq. For state land commissioner. | 7944. For state board of veterinary medical examiners. |

State board of immigration was abolished by Laws 1857, cc. 155, 165.

² As to when governor is to appoint county commissioners in unorganized counties, see post, § 660. For act authorizing appointment by governor of counsel in "indemnity land" cases, see Laws 1887, c. 171.

§ 301. Shall appoint private secretary.

He shall appoint his private secretary, who shall enter in a book kept for that purpose, all such letters written by and to the governor as are official and important, and such other letters as the governor directs. Said book shall be deposited in the office of the executive by the private secretary, and carefully preserved, and the governor shall produce the letter-books before the legislature whenever requested.

(G. S. 1866, c. 6, § 4; G. S. 1878, c. 6, § 4.)

§ 302. To provide new seal, when.

Whenever the great seal of the state is lost, or so worn or defaced as to render it unfit for use, the governor shall provide a new one.

(G. S. 1866, c. 6, § 5; G. S. 1878, c. 6, § 5.)

§ 303. Shall appoint janitor of the capitol.

He is authorized and required to appoint a suitable person as janitor of the capitol, to hold said office during the pleasure of the governor.

(G. S. 1866, c. 6, § 6; G. S. 1878, c. 6, § 6.)

§ 304. And other persons to care for the capitol—Their duties.

The governor shall appoint or employ the following persons to attend to the safety, cleanness, and comfort of the capitol building and capitol grounds, and perform such manual labor and duties as the various state officers therein may require from time to time:

First. A janitor, who shall have the care and oversight of the building and its contents generally, and be made responsible for the movable property and fixtures, and for the cleanness, quiet, and safety of the building, and the care and neatness of the grounds, fences, and shrubbery. He shall have the power and authority of a policeman, and be authorized to make arrests, if necessary to enforce order and quiet in and about the building, and whose salary shall be twelve hundred dollars per annum. One messenger, such messenger to perform the duties appertaining to that position, and to aid the janitor, at a compensation of not more than fifty dollars per month. A chief engineer, who shall have the control and regulation of the steam-heating apparatus, gas fixtures, plumbing, etc., alter and repair the same when necessary, attend to the heating and ventilation of the building, and render such other services, when not so engaged, as he has opportunity, in the care, safety, and quiet of the building. During the period when the steam-heating apparatus is not being operated, he shall be the night-watchman, and shall have the power and authority of a policeman, and be authorized to make arrests, if necessary to enforce order and quiet in and about the building, whose salary shall be fifteen hundred dollars per annum.

Fourth. A fireman for day duty, to be employed as such during the period when the steam-heating apparatus is in use; during the remainder of the year he shall act as laborer to do such work and services about the building and grounds, under the supervision of the janitor, as occasion may require, and to make himself generally useful, whose salary shall be seventy-five dollars per month.

[*Fifth.*] A night-fireman and assistant engineer, to be employed only during the period when the steam-heating apparatus is in use, and who shall be during that period night-watchman, and while so acting shall have the power and authority of a policeman, and be authorized to make arrests, if necessary to enforce order and quiet in and about the building, and whose salary shall be seventy-five dollars per month for not more than four months in each year.

The hours of service of the above employes are to be so adjusted that one or more of them shall be on duty during every portion of the day and night to care for the safety of the building from fire and robbery, and render such other services as the occasion demands. The governor shall prepare rules and

MINNESOTA STATUTES 1894

Tit. 2]

SECRETARY OF STATE.

§§ 304-311

instructions fixing the details of the service about the building to carry out the above provisions.

(1879, c. 100, § 1; G. S. 1878, v. 2, c. 6, § 66; as amended 1889, c. 251, § 1; 1893, c. 93, § 1.)

TITLE 2.

SECRETARY OF STATE.

§ 305. To keep office in capitol, and have custody of records.

The secretary of state shall keep his office in the capitol, in rooms provided and furnished by the state; he shall have the custody of the state seal and all the records of the state.

(G. S. 1866, c. 6, § 7; G. S. 1878, c. 6, § 7.)

§ 306. May appoint assistant secretary.

He may appoint in writing an assistant secretary of state, who, before entering on his duties, shall take and subscribe the oath required by law, which oath and appointment shall be filed in his office.

(G. S. 1866, c. 6, § 8; G. S. 1878, c. 6, § 8.)

§ 307. Shall prepare halls for legislature.

Immediately previous to any regular adjourned or extra session of the legislature, the secretary shall cause the halls in which the session is to be held to be suitably prepared for that purpose, and shall be in attendance at each regular session to call the members of the house of representatives to order and preside until a speaker is elected.

(G. S. 1866, c. 6, § 9; G. S. 1878, c. 6, § 9.)

§ 308. Shall make indexes to laws and documents.

He shall cause indexes to the laws and executive documents to be prepared as soon as practicable after the adjournment of each session of the legislature, and distribute said laws when printed in the manner required by law.

(G. S. 1866, c. 6, § 10; G. S. 1878, c. 6, § 10.)

But see ante, § 280.

§ 309. Shall publish constitution and amendments.

That the secretary of state be and he is hereby directed to prepare and cause to be published in the volume of the general laws of this state for this year eighteen hundred and seventy-three, the constitution of this state with such amendments thereto as are now of force; and that said secretary be also directed to cause any amendments to said constitution that shall hereafter be adopted, to be published in the volume of the general laws of this state that shall be published next after such amendments shall be adopted, with proper notes, in all cases, to indicate the date of adoption respectively of such amendments.

(1873, c. 35, § 1; G. S. 1878, c. 6, § 11.)

§ 310. Synopsis of proposed constitutional amendments.

Whenever any constitutional amendment or amendments are proposed by the legislature of this state to be submitted for adoption or rejection by the people thereof, it shall be the duty of the attorney general to critically examine the same and prepare and furnish to the secretary of state, at least four months preceding any election at which the same is or are to be voted upon, a synopsis thereof, containing the original article or section and the proposed amendment.

(1887, c. 157, § 1; G. S. 1878, v. 2, c. 6, § 11a.)

By § 7, all acts or parts of acts in conflict therewith are repealed.

§ 311. Same—To be published.

It shall be the duty of the secretary of state, before any election at which any amendment or amendments are to be voted upon, to cause the synopsis

305-318
95 . 356
305
318) '05 . 124

306
99 - 137

308
97 - 202

and opinion of the attorney general provided for in section one of this act, to be printed and published in the newspapers printed at the capital of the state, and also one paper in each county in the state to be designated by him, for a period of once in each week for three successive weeks immediately preceding such election: *provided*, that when more than one amendment is proposed the same shall not be published separately, but shall be published in one article. (1887, c. 157, § 2; G. S. 1878, v. 2, c. 6, § 11b.)

§ 312. Same—To be distributed to counties.

The secretary of state shall also cause to be printed in bill form such number of copies of said synopsis of the proposed constitutional amendment or amendments provided for in section one as shall be sufficient to furnish at least six copies for each voting precinct in the state, and shall forward the same to each county auditor at least six weeks preceding any such election. (1887, c. 157, § 3; G. S. 1878, v. 2, c. 6, § 11c.)

§ 313. Same—To be distributed to towns.

It shall be the duty of the county auditor of each county, immediately upon the receipt of the bills provided for in section three, to forward to each of the town clerks in the county the number thereof provided for in this act. (1887, c. 157, § 4; G. S. 1878, v. 2, c. 6, § 11d.)

§ 314. Same—When to be posted.

It shall be the duty of each town clerk to post said notices at least twenty days before the election in the same manner as the register lists of voters are required to be posted: *provided*, that there shall be at least one of said notices posted at each polling place at the day of the election. (1887, c. 157, § 5; G. S. 1878, v. 2, c. 6, § 11e.)

§ 315. Penalty for neglect.

If any of the officers named in this act willfully or negligently fail to perform by its provisions, he or they or either one of them shall, upon conviction, be fined in a sum not exceeding one hundred dollars nor less than twenty-five dollars, and in default of payment shall be committed in the county jail until such fine is paid, not exceeding thirty days. (1887, c. 157, § 6; G. S. 1878, v. 2, c. 6, § 11f.)

§ 316. May employ clerk.

The secretary of state is hereby empowered to employ in his office a clerk, who shall receive for his services twelve hundred dollars per annum, to be paid out of the state treasury as other clerks of the state department are paid. (1876, c. 96, § 1; G. S. 1878, c. 6, § 12; as amended 1883, c. 148, § 1.)

§ 317. May employ a recording clerk.

The secretary of state is hereby empowered to employ in his office a recording clerk, who shall receive for his services the sum of one thousand dollars per annum; and the sum aforesaid is hereby annually appropriated out of any moneys in the treasury belonging to the general revenue fund for the payment of said salary. (1883, c. 147, § 1, as amended 1885, c. 290; G. S. 1878, v. 2, c. 6, § 12a.)

§ 318. To turn all fees into state treasury.

All fees and charges whatever hereafter paid into the office of the secretary of state, including all fees received by such officer during the months of January and February, one thousand eight hundred and eighty-seven, except fees for notary public appointment, which fees shall be paid to the private secretary of the governor from and after the passage of this act, and remain in force until January first, one thousand eight hundred and eighty-nine, shall be turned over to the state treasury; and it shall be the duty of the secretary of state to make monthly statements in detail to the state auditor of fees received, and to pay the same to the state treasurer, according to such statement: *provided*, that the fees so to be paid to the state treasurer shall in-

clude all fees, of whatever nature, for every service rendered in said office, whether by the secretary, his assistant, or any clerk in the department.
(1887, c. 225, § 3; G. S. 1878, v. 2, c. 7, § 1, subd. 2b.)

TITLE 3.

AUDITOR.*

§ 319. Shall keep office at capitol—Shall give bond.

The auditor shall keep his office at the seat of government, and perform all the duties appertaining thereto which are required of him by law or resolution of the legislature. Before entering on the duties of his office, he shall enter into bond with one or more sureties, to be approved by the governor, in the sum of twenty thousand dollars, payable to the state of Minnesota, conditioned for the faithful discharge of his official duties; he shall take and subscribe the oath required by law, which oath and bond shall be deposited in the office of the secretary of state.

(G. S. 1866, c. 6, § 11; G. S. 1878, c. 6, § 13.)

§ 320. Shall keep a seal.

He shall keep a seal, with the device, "the seal of the auditor for Minnesota," and all official copies taken from the records or other documents in his office shall be under said seal, and be certified and signed by the auditor.

(G. S. 1866, c. 6, § 12; G. S. 1878, c. 6, § 14.)

§ 321. Shall examine accounts and draw warrants.

All accounts and claims against the state, which are by law directed to be paid out of the treasury of the state, shall be presented to the auditor, who shall examine and adjust the same, and issue warrants, payable at the state treasury, for the sums which are found due from the state, specifying in each warrant the date of its issue, and the name of the person to whom payable; said warrants shall be printed on separate sheets of paper, and each shall be entered and numbered, and the number corresponding therewith shall be on the part of the sheet from which such warrant is cut; and all such parts of sheets containing the corresponding numbers, shall be carefully preserved by the auditor in his office.

(G. S. 1866, c. 6, § 13; G. S. 1878, c. 6, § 15.)

§ 322. Shall enter each warrant in book.

The auditor shall enter, in progressive order, in books to be by him provided for that purpose, the number of each warrant by him issued, the amount thereof, the date of its issue, and the name of the person to whom issued.

(G. S. 1866, c. 6, § 14; G. S. 1878, c. 6, § 16.)

§ 323. Shall keep records of accounts.

He shall make and preserve in his office, in suitable books, to be procured at the expense of the state, fair and accurate records of all such public accounts and other documents as are by law made returnable to his office, and keep a file, in progressive order; of all receipts and other vouchers relating to the business of his office.

(G. S. 1866, c. 6, § 15; G. S. 1878, c. 6, § 17.)

§ 324. Shall keep account with state treasurer.

He shall keep a regular account with the treasurer of state, in suitable books, to be provided as aforesaid, in which he shall charge the treasurer with all moneys by him received, and credit him with all warrants by him redeemed and deposited in the office of the auditor.

(G. S. 1866, c. 6, § 16; G. S. 1878, c. 6, § 18.)

* Authorized to satisfy judgments in behalf of the state, post, § 5433.
Duties of auditor in connection with banks transferred to public examiner, see post, § 414.

§ 325. Shall make annual statement of receipts and disbursements.

The auditor shall annually make out an accurate statement of the receipts and disbursements of the treasury for the preceding year, ending on the last day of the month previous to the one during which the legislature commences its annual sessions; also of any unexpended balances of the several appropriations, the amount remaining in the treasury, the amount of warrants issued and not redeemed (if any), and report the same to each branch of the legislature, on the third day of its session, together with such remarks on the finances of the state as he deems proper for the consideration of the legislature.

(G. S. 1866, c. 6, § 17; G. S. 1878, c. 6, § 19.)

§ 326. Shall submit books to legislature.

Whenever required, the auditor shall submit his books, accounts and vouchers to the inspection of the legislature, or any committee thereof appointed for that purpose.

(G. S. 1866, c. 6, § 18; G. S. 1878, c. 6, § 20.)

§ 327. May administer oaths.

The auditor is authorized to administer an oath to parties and witnesses in support of the justice of such accounts as are exhibited to him for liquidation, and to certify the same accordingly.

(G. S. 1866, c. 6, § 19; G. S. 1878, c. 6, § 21.)

§ 328. Shall furnish certified copies of surveys.

He shall deliver to any person applying therefor, a certified copy of any survey, or any other document in his office, on being paid ten cents for each hundred words contained therein, and twenty-five cents for each plat of survey laid down in such copy.

(G. S. 1866, c. 6, § 20; G. S. 1878, c. 6, § 22.)

§ 329. May appoint deputy.

He may appoint a deputy, whose appointment shall be evidenced by a certificate under the official seal of the auditor, and continue during his pleasure. Said deputy, previous to entering upon the duties of his appointment, shall give bond, with two or more sureties, in the penal sum of ten thousand dollars, payable to the state of Minnesota, and conditioned for the faithful performance of the duties of his office. In case of the absence or inability of the auditor, the deputy shall perform the several duties required of the auditor.

(G. S. 1866, c. 6, § 21; G. S. 1878, c. 6, § 23; as amended 1885, c. 96.)

§ 330. May employ book-keeper.

That the state auditor is authorized to employ a book-keeper at a salary of fifteen hundred dollars per annum.

(1883, c. 146, § 1; G. S. 1878, v. 2, c. 6, § 23a.)

§ 331. Penalty for violation of duty.

Any auditor of state or deputy who violates any of the provisions of this title, shall, on conviction thereof, be punished by imprisonment in the state prison for a period of not more than ten years.

(G. S. 1866, c. 6, § 22; G. S. 1878, c. 6, § 24; as amended 1885, c. 96.)

§ 332. When duplicate warrant may issue.

That whenever the state auditor, under and by virtue of the provisions of the laws of this state, issues any state warrant upon the state treasurer in favor of any state or county officer, or other person, company or corporation, for the payment of any moneys out of the state treasury, and the said warrant shall become lost or destroyed, it shall be the duty of the said state auditor to issue a duplicate warrant in favor of the state or county officer, or other person, company or corporation, to whom the original warrant was issued, or to any person, company or corporation legally holding under them,

MINNESOTA STATUTES 1894

Tit. 3]

AUDITOR.

§§ 332-338

in the manner, and subject to the provisions, hereinafter contained in this act.

(1874, c. 13, § 1; G. S. 1878, c. 6, § 25.)

§ 333. Owner of lost warrant to make affidavit.

Whenever any warrant [is] drawn by the state auditor for the payment of any money out of the state treasury, as in the first section of this act enumerated, and the same shall become lost or destroyed, any person, company or corporation who was the legal holder or owner of said warrant at the time it so became lost or destroyed, shall make an affidavit, particularly describing the said warrant as to date, amount, number, and fund out of which it was to be satisfied, and also shall state in said affidavit such other facts concerning the loss or destruction of the original warrant as he may have in his possession or knowledge, and shall request in such affidavit that a duplicate warrant may be issued in his favor, and shall file the same with the state auditor within one year after the loss of any warrant as aforesaid.

(1874, c. 13, § 2; G. S. 1878, c. 6, § 26.)

§ 334. Bond to be given—Notice published.

If it appears that the person, company or corporation filing such affidavit is entitled to receive such duplicate warrant as aforesaid, the state auditor may issue such duplicate warrant as aforesaid in favor of the person, company or corporation who are entitled to receive the same; but if he has any reason to believe, or if it appears possible or probable, that any person, company or corporation may be in anywise damaged by the issuance of such duplicate warrant, he shall in such cases require from the person, company or corporation applying for such duplicate warrant a bond, with good and sufficient sureties, which shall be made payable to the state of Minnesota, and shall be drawn in double the amount of the original warrant, and shall be approved by and filed with the state auditor before such duplicate warrant shall issue, conditioned for the benefit of any person, company or corporation damaged by the issuance of such duplicate warrant; and if the state auditor has grave doubts from any cause that the statements contained in the affidavit are untrue, he may, in cases where the amount of the warrant is two hundred dollars or over, publish in some newspaper having general circulation the circumstances of the case as contained in the affidavit, and shall give notice of some day certain when he will issue such duplicate warrant which shall be not less than thirty days after the first publication of the notice.

(1874, c. 13, § 3; G. S. 1878, c. 6, § 27.)

§ 335. Original warrant to be cancelled.

Whenever a duplicate warrant shall be issued under the provisions of this act, the original warrant shall thereupon be cancelled, and the state of Minnesota relieved from any claim or liability for the payment of such original warrant.

(1874, c. 13, § 4; G. S. 1878, c. 6, § 28.)

§ 336. Discretion of auditor—State not liable.

The state auditor shall use his discretion in carrying out the provisions of this act as appears to him to be right, and in accordance with justice and honesty: provided, that in no case shall the state be liable for any damages accruing under the provisions of this act.

(1874, c. 13, § 5; G. S. 1878, c. 6, § 29.)

§ 337. When reduplicate may issue.

Warrants may be reduplicated under the provisions of this act in cases where the duplicate becomes lost or destroyed.

(1874, c. 13, § 6; G. S. 1878, c. 6, § 30.)

§ 338. Punishment in case of fraud.

Any person who shall secure a duplicate warrant under the provisions of this act, who is not legally entitled to the same, shall be liable to indictment in any of the courts of this state having jurisdiction, for the crime of embezzlement or perjury as the case may be.

(1874, c. 13, § 7; G. S. 1878, c. 6, § 31.)

TITLE 4.

TREASURER.

339-353
95 343

§ 339. Treasurer shall keep office at capitol—Have a seal—General duties.

339-353
99 - 298
99 - 302

The treasurer of state shall keep his office at the capitol, and by himself or deputy attend therein during the usual business hours of each day, Sundays and holidays excepted; he shall have and use a seal, and have charge of and safely keep all public moneys which are paid into the treasury, and pay out the same as directed by law, and perform all such other duties as are required of him by law.

(G. S. 1866, c. 6, § 23; G. S. 1878, c. 6, § 32.)

339 }
353 } '05 . 96

§ 340. Shall give bond and take oath.

340
99 - 95

Before entering on his duties, the treasurer shall give bond, with five or more sureties to be approved by the governor and state auditor, in the sum of four hundred thousand dollars, payable to the state of Minnesota, and conditioned for the faithful discharge of his duties as treasurer, and shall take and subscribe the oath required by law; which bond and oath shall be deposited with the secretary of state. The legislature may, at any time during the continuance in office of the treasurer, require him to give such additional security as they may deem necessary for the complete safety of the state.

(G. S. 1866, c. 6, § 24, as amended 1874, c. 12, § 1; G. S. 1878, c. 6, § 33.)

§ 341. Shall keep account of receipts and disbursements—Duplicate receipts.

The treasurer shall keep an accurate account of the receipts and disbursements at the treasury, in books provided for that purpose at the expense of the state, specifying the names of persons from whom received, to whom paid, on what account the same is received or paid out, and the time of such receipt or payment. And for all payments into the state treasury by the treasurer of any of the counties of the state he shall issue duplicate receipts, one of which shall be sent to the treasurer, and the other to the auditor of the county.

(G. S. 1866, c. 6, § 25; G. S. 1878, c. 6, § 34; as amended 1881, c. 12, § 1.)

§ 342. Shall receive and redeem warrants.

He shall receive in payment of public dues, the warrants drawn by the auditor of state, in conformity to law, or redeem the same, if there is money in the treasury appropriated for that purpose; and on redeeming such warrant or receiving the same in payment, he shall cause the person presenting such warrant to endorse the same; and the treasurer shall write on the face of such warrant, "redeemed," and shall enter in his book, in separate columns, the number of such warrant, its date, amount, the name of the person to whom payable, and the date of payment.

(G. S. 1866, c. 6, § 26; G. S. 1878, c. 6, § 35.)

§ 343. Shall deliver daily statement to auditor.

The state treasurer shall, at the close of business each day, deliver to the state auditor a statement showing the entire receipts and disbursements of his office during the day, together with duplicate receipts for moneys received and the state warrants on which disbursements have been made. Said statement shall show the amounts credited to the several funds and amounts paid from the several funds.

(G. S. 1866, c. 6, § 27; G. S. 1878, c. 6, § 36; as amended 1893, c. 76, § 1.)

§ 344. Shall make and publish report—Board of auditors.

He shall report to each branch of the legislature on the third day of their session, and to the governor whenever by him required, the state of the public accounts and of the state and school funds, plainly exhibiting the amount by him received from every source, and all and singular the items thereof, the amount paid out during the preceding year, and each and every item thereof,

344
97 - 358
69-NW 3
344
66-M - 301
68-M - 411

and where such funds are, and the balance remaining in the treasury, and each and every item thereof; and shall once in two months publish, in one or more of the daily newspapers printed and published at the capital of the state, a condensed statement of the condition of the several funds in his hands belonging to the state at the date of such publication; and there is hereby created a board of auditors of the state treasury and the funds thereof, consisting of the governor, secretary of state, and attorney general, whose duty it shall be to carefully examine and audit the accounts, books, and vouchers of the treasurer, and to count and ascertain the kinds and description and amounts of funds in the treasury as belonging thereto, at least four times in each year, without previous notice to the treasurer, and make report thereof, and of their acts and doings in the premises, to each branch of the legislature as early as the third day of their session; and also to witness and attest the transfer and delivery of accounts, books, vouchers, and funds by any outgoing treasurer to his successor in office, and report the same in their report aforesaid next after the term of office of any treasurer shall expire: *provided*, that all funds belonging to the permanent school fund, or the permanent university fund, or any other permanent fund of any state institution, shall, as soon as the same amounts to the sum of one thousand dollars, be at once invested in interest-bearing bonds, as provided in chapter thirty-three of the laws of 1873.

See post, § 4005.

(2) Shall deposit funds in banks.

All the funds of the state shall be deposited in one or more banks located in the state immediately on their receipt by the treasurer, in the name of the state of Minnesota; such bank or banker shall be selected by the treasurer, and shall be required, prior to the receipt of any such deposits, to give to such treasurer, for the use of the state of Minnesota, a personal bond, to the satisfaction of such treasurer and said board of auditors, in at least double the amount to be so deposited, and with at least five sureties, who shall all justify in the manner provided for the justification of sureties on bonds in civil actions, as security for the amount so to be deposited with such bank or banker: *provided*, however, that the taking of such security shall not be construed in any manner to release the said treasurer or his bondsmen from their liability to the state for any money so deposited. And the said board of auditors shall have authority to require the said treasurer to call for a new or an additional bond whenever in their opinion it is necessary for the complete protection of all the funds so deposited; but, whenever a new bond is taken under the provisions of this section, the original bond, and the rights and liabilities of the parties thereto, incurred or existing at or prior to the time of the approval and acceptance of such new bond, shall not in anywise be affected or impaired.

(As amended 1883, c. 155, § 1; 1885, c. 41, § 1.)

(3) Interest on deposits.

Such bank or banker shall pay to the treasurer for the use of the state of Minnesota such fair and equitable interest on all daily balances in their hands belonging to the state as may be agreed upon between such bank or banks and the treasurer, which interest shall in no case be at a less rate than three per cent.

(As amended 1885, c. 41, § 2.)

(4) Shall keep accurate books.

The treasurer shall keep the books of the treasury department by the system known as double entry, and in such a manner as to show plainly and accurately every receipt and disbursement daily, and on the same day on which such receipt and disbursement or either of them actually occurs; and no unfinished business shall be kept or entered upon loose memoranda or strips of paper; and the said treasurer's cash book shall be balanced plainly and accurately every business day; and every payment by the state treasury shall be made on

the warrant of the state auditor, and by check on a depository of state funds, and such check shall bear on its face the name of the payee and the number of the warrant for which drawn, and shall be drawn to the order of the payee.

(As amended 1874, c. 11, § 1.)

(G. S. 1866, c. 6, § 28; G. S. 1878, c. 6, § 37; amended as supra.)

§ 344a. Bonds to be destroyed, when.

Whenever the board of auditors of the state treasury, created by chapter eleven of the General Laws of one thousand eight hundred and seventy-four, shall find that the sinking fund holds any bonds of the state which have been redeemed by the state treasurer, they shall carefully compare such redeemed bonds with the register kept in the treasurer's office, and proceed to have them destroyed, certifying in said register how and when destroyed.

(1879, c. 90, § 1; G. S. 1878, v. 2, c. 6, § 44a.)

§ 345. Shall not purchase warrants at discount.

The treasurer shall in no case purchase or receive any warrant redeemable at the treasury, or any audited account, at a less value than is expressed therein; nor shall he receive any fee or reward for transacting any business connected with the duties of his office.

(G. S. 1866, c. 6, § 29; G. S. 1878, c. 6, § 38.)

§ 346. Accountable for losses.

If the treasurer neglects to call to account, as directed by law, any delinquents, whereby the public revenue suffers loss, he shall be accountable for the sums due by such delinquents, as if the same had actually been paid over to him.

(G. S. 1866, c. 6, § 30; G. S. 1878, c. 6, § 39.)

§ 347. In default, state may obtain judgment, on motion.

Whenever it appears that the treasurer has not accounted for and paid over the public moneys as directed by law, the state may move for and obtain judgment against the treasurer and his sureties, first giving to the persons against whom such motion shall be made, five days' notice of the time and place thereof, and said treasurer shall be further liable to a criminal action, and upon conviction be punished by imprisonment in the state prison for a term of not more than twenty years.

(G. S. 1866, c. 6, § 31; G. S. 1878, c. 6, § 40.)

§ 348. State debts to have preference in case of insolvency.

If any treasurer, or other person indebted to the state, becomes insolvent, the debt of the state shall be paid first of all debts, notwithstanding any attachment against his effects, or any voluntary assignment thereof to pay debts, or for other purposes.

(G. S. 1866, c. 6, § 32; G. S. 1878, c. 6, § 41.)

§ 349. Treasury dues, in what payable.

Treasury dues shall be paid in gold, silver, treasury drafts, national currency, or warrants.

(G. S. 1866, c. 6, § 33; G. S. 1878, c. 6, § 42.)

§ 350. Abstracts of title and conveyances—Place of deposit.

That all abstracts and conveyances of title to the state of Minnesota of any lands now owned or hereafter acquired by the state, whether the said lands be held for penal, educational, charitable or other institutions or purposes shall be, by those in whose charge said conveyances now are, or may come, deposited with and remain in control of the state treasurer.

(1889, c. 25, § 1.)

§ 351. Transfer to general revenue fund.

The state treasurer is hereby authorized and directed to transfer to the general revenue fund all moneys in his hands standing to the credit of the state

institution fund, and all moneys hereafter received into the treasury in pursuance of law from railroad, telegraph, and other companies in lieu of taxation, and all moneys received from delinquent taxes, and all moneys received in excess of the amount required for the purposes for which the same were levied, together with such sums as may be received from the United States in payment of war claim, shall be placed to the credit of the general revenue fund.

(1885, c. 214, § 1; G. S. 1878, v. 2, c. 6, § 43a.)

See Laws 1883, c. 144, as to transfer from forestry fund of \$25,000 to sinking fund, and certain balances to redemption fund.

§ 352. **Transfer of balance in state forestry fund.**

That the state treasurer be and hereby is authorized and directed on the first day of January in each year to transfer to the general revenue fund all sums in his hands standing to the credit of said forestry fund, not required to pay the claims against said fund, that may on said day be on file in the office of the state auditor, or to redeem warrants issued by said auditor on said fund.

(1885, c. 214, § 4; G. S. 1878, v. 2, c. 6, § 43d.)

§ 353. **Use of certain funds.**

The state treasurer is authorized to borrow and use temporarily, from funds having an available balance in the treasury, two hundred thousand dollars, or so much thereof as may be necessary to supply any deficiency that may exist in the revenue fund: *provided*, it will not impair said respective funds so that they cannot meet all demands as the exigencies may require: *and provided further*, that the interest received on deposits of permanent trust funds in banks shall be apportioned to the proper current fund.

(1874, c. 9, § 1; G. S. 1878, c. 6, § 44; as amended 1881, c. 6, § 1; 1881,

Ex. S. c. 39, § 1; 1883, c. 10, § 1.)

TITLE 5.

ATTORNEY GENERAL.⁴

§ 354. **Shall keep office at capitol—Postage.**

The attorney general shall keep his office at the seat of government, in a room provided and furnished by the state, and the accounts for postage upon his official correspondence shall be audited and allowed by the auditor and paid out of the state treasury.

(G. S. 1866, c. 6, § 34; G. S. 1878, c. 6, § 45.)

§ 355. **Shall appear for state in supreme court.**

He shall appear for the state in the trial and argument of all causes in the supreme court wherein the state is directly interested.

(G. S. 1866, c. 6, § 35; G. S. 1878, c. 6, § 46.)

See State v. Sexton, 42 Minn. 154, 43 N. W. Rep. 845.

§ 356. **Shall appear in district court, when.**

He shall, upon the written request of the governor, prosecute any person charged with an indictable offence, and appear in the district court in all criminal cases, when requested by the county attorney of the county in which the same arise, whenever the public interest requires it; and in such cases may attend upon and advise the grand jury, in the same manner and for the same purpose as county attorneys are now authorized and required to do; and shall also appear in civil actions in which the state is interested, whenever, in his opinion, the public interest requires it.

(G. S. 1866, c. 6, § 36, as amended 1867, c. 94, § 1; G. S. 1878, c. 6, § 47.)

⁴Ex officio attorney for railroad and warehouse commission, see post, § 387, subd. h. As to duty of attorney general to defend suits brought by railroad companies against persons claiming certain lands, see Laws 1885, c. 176.

354-364
99 - 212

354
364 } '05 . 227
297

§ 357. Shall prosecute official bonds and persons holding school lands.

He shall cause to be prosecuted the official bonds of all delinquent officers in which the state may be interested, and institute actions against all persons holding or pretending to hold any portion of any of the school sections of this state adversely to the state, whenever, in his opinion, such actions can be sustained.

(G. S. 1866, c. 6, § 37; G. S. 1878, c. 6, § 48.)

§ 358. Shall appear for state in cases of pre-emption of school lands.

Whenever notice of any application to pre-empt any portion of the school sections of this state under and by virtue of the provisions of the joint resolution of congress, entitled "A resolution relative to sections sixteen and thirty-six in the territories of Minnesota, Kansas and Nebraska," passed March 3d, 1857, is served upon the attorney general, he shall personally, or by the county attorney of the county where such application is made, cause an appearance to be entered on behalf of the state, and cause to be subpoenaed all necessary witnesses on behalf of the state, and take such measures in the premises as will, in his opinion, best promote the public interest.

(G. S. 1866, c. 6, § 38; G. S. 1878, c. 6, § 49.)

§ 359. Shall prosecute delinquent revenue officers and corporations.

He shall cause to be prosecuted all assessors and other officers connected with the revenue laws of this state, for all such delinquencies and offences against those laws as come to his knowledge. Said actions shall be brought in the district court of the county in which the defendants or any one of them resides or is found. If it comes to his knowledge that any incorporated company has offended against the laws of the state, misused, surrendered, abandoned or forfeited its corporate authority or any of its franchises or privileges, he shall cause proceedings to be instituted against it.

(G. S. 1866, c. 6, § 39; G. S. 1878, c. 6, § 50.)

§ 360. Required to give legal advice.

He shall, when required, give legal advice to the governor, the secretary, auditor and treasurer of state, the warden and directors of the penitentiary, and the state superintendent of public instruction, and directors of benevolent institutions, in all matters relating to their official business, and shall give his written opinion upon any question of law to either house of the legislature when required.

(G. S. 1866, c. 6, § 40, as amended 1868, c. 40, § 1; G. S. 1878, c. 6, § 51.)

§ 361. Shall prepare forms of contracts.

He shall prepare suitable forms of contracts, bonds, obligations and other instruments for the use of the officers of the state, when requested by the governor, secretary, auditor or treasurer.

(G. S. 1866, c. 6, § 41; G. S. 1878, c. 6, § 52.)

§ 362. May take appeal without giving security.

Upon all appeals taken by the attorney general on behalf of the state, or any of its officers, no security is required.

(G. S. 1866, c. 6, § 42; G. S. 1878, c. 6, § 53.)

§ 363. Shall keep register of actions and opinions.

The attorney general shall keep, in a book furnished by the state, a register of all actions, demands, complaints, writs, informations, and other proceedings, prosecuted or defended by him officially, together with all the proceedings had in respect thereof, and also a register of all written official opinions given by him, which said books he shall deliver to his successor at the expiration of his term.

(G. S. 1866, c. 6, § 43; G. S. 1878, c. 6, § 54.)

359
67-M - 17

§ 364. Shall make annual report.

He shall make an annual report to the governor, stating the number, character, condition and result of the actions prosecuted or defended by him in behalf of the state (to which shall be appended a tabular statement of offences reported to him by the county attorneys,) the cost of prosecuting or defending each action and the amount of fines and penalties collected. He shall set forth in such report the opinions of general interest rendered by him. He shall also direct attention to any defect in the practical operation of the laws relating to schools, revenue, and criminal offences, and suggest such amendments as in his judgment are necessary to subserve the public interest.

(G. S. 1866, c. 6, § 44; G. S. 1878, c. 6, § 55; as amended 1893, c. 14, § 1.)

TITLE 6.

LIBRARIAN.*

§ 365. State library—Of what it shall consist.

The state library shall consist of the books, pamphlets, maps, charts and documents of every kind now belonging to the same, together with such others as it may acquire by gift, purchase, exchange or otherwise.

(1878, c. 88, § 1; G. S. 1878, c. 6, § 56.)

§ 366. Librarian—Oath—Bond.

The governor, by and with the advice and consent of the senate, shall appoint a librarian, who shall hold his office for two years, and until his successor is appointed and qualified. Before entering upon his duties, he shall take the oath of office, and give a bond to the state, in the sum of two thousand dollars, with two sureties, to be approved by the governor, conditioned for the faithful performance of his official duties, the safe-keeping and delivery to his successor of all property belonging to the library, and the proper disbursement or payment to his successor of all moneys coming into his hands as librarian. Such oath and bond shall be filed in the office of the secretary of state.

(1878, c. 88, § 2; G. S. 1878, c. 6, § 57.)

For salary, see post, § 7956, subd. 10.

§ 367. May appoint assistant.

That the state librarian of the state library be and he is hereby authorized to appoint an assistant at an annual salary of nine hundred dollars per year. All appointees hereunder shall hold office at the pleasure of said librarian.

(1893, c. 12, § 1.)

§ 368. Duties of the librarian.

The librarian shall have the custody and charge of all property belonging to the library. He shall, under the direction and control of the judges of the supreme court, attend to all sales, purchases [and exchanges of books, pamphlets or other documents,] for the same. He shall, as respects himself, obey, and, as respects other persons, enforce such rules and regulations as may be prescribed for the government and conduct of the library and its affairs. He shall, with or without suit, collect in his own name, for the use of the library, such damages as may be sustained by injury to, or failure to return, any books or other property of the library, as well as all fines imposed by any of the rules or regulations before mentioned. He shall keep a book in which he shall enter a detailed and chronological account of all exchanges, purchases and sales of books, pamphlets or other documents. On the first day of December in each year, he shall make a report to the governor, containing a list of the books added to the library during the preceding twelve months, designating which have been added by gift, which by exchange, and which by purchase; a list of the books lost during the said twelve months; a statement

* A copy of any judicial decision, etc., in the custody of the librarian, when certified by him under his official seal, may be used before any court. See post, § 5717.

MINNESOTA STATUTES 1894

§§ 368-374

STATE OFFICERS.

[Ch. 6.]

of the amount collected for the use of the library during the same period, for loss of books or injury thereto, and for fines; and also a statement of the amount expended for the library, designating in a general way the purposes for which such expenditures have been made.

(1878, c. 88, § 3; G. S. 1878, c. 6, § 58.)

§ 369. Judges of supreme court to control library.

The judges of the supreme court shall exercise a general oversight of the library. They shall have power to adopt all such rules and regulations for the government and conduct of the same and its affairs as they may deem proper, and also rules prescribing penalties and fines for any violation thereof. Such rules and regulations shall be posted up in conspicuous places in the room occupied by the library. Such judges are authorized to direct such purchases of books, pamphlets and documents for the library, and to direct such sales and exchange of books, pamphlets and documents in the library as they may deem best, subject, however, to the exception that no copies of the statutes (including the session laws) of the territory or state of Minnesota shall be sold, exchanged, or in any way disposed of.

(1878, c. 88, § 4; G. S. 1878, c. 6, § 59.)

§ 370. Exchange of reports with other states.

Immediately upon receiving the volumes of the reports of the supreme court, the secretary of state shall furnish the librarian with a number of copies thereof equal to the number of states and territories of the United States; and thereupon it shall be the duty of the librarian (instead of the secretary of state as now required by law) to transmit one copy thereof to the governor or librarian of each of said states and territories.

(1878, c. 88, § 5; G. S. 1878, c. 6, § 60.)

§ 371. Disposal of receipts.

All moneys received for books sold, or for injury to or failure to return books or other property of the library, or for fines, shall be expended for the benefit of the library.

(1878, c. 88, § 6; G. S. 1878, c. 6, § 61.)

§ 372. Annual appropriation fund of the state library.

There shall be and hereby is appropriated out of any moneys not otherwise appropriated, the sum of two thousand dollars for the year one thousand eight hundred and eighty-five, and every year thereafter, to be known as the annual appropriation fund of the state library, and be used for its benefit.

(1885, c. 258, § 1; G. S. 1878, v. 2, c. 6, § 61a.)

§ 373. Contingent fund of state library.

There shall be and hereby is appropriated out of any moneys not otherwise appropriated, the sum of three hundred dollars, for the year one thousand eight hundred and eighty-five, and every year thereafter, to be known as the contingent fund of the state library, and to be used for its benefit.

(1885, c. 258, § 2; G. S. 1878, v. 2, c. 6, § 61b.)

TITLE 7.

CLERK OF THE SUPREME COURT.

§ 374. Clerk shall take oath and give bond—May appoint deputy.

The clerk of the supreme court, before he enters upon the duties of his office, shall take and subscribe the oath required by law, and execute a bond to the governor, with one or more sureties to be approved by him, in the penal sum of one thousand dollars, conditioned for the faithful performance of his duties, which bond shall be for the use of the state, and, with said oath, filed in the office of the secretary of state. The said clerk may appoint a deputy.

(94)

MINNESOTA STATUTES 1894

Tit. 9] RAILROAD AND WAREHOUSE COMMISSION. §§ 374-379

who shall take and subscribe the oath required by law, which shall be filed in said court; the said clerk is responsible for the acts of his deputy.

(G. S. 1866, c. 6, § 60; G. S. 1878, c. 6, § 62.)

§ 375. Deputy clerk.

The clerk of supreme court is hereby empowered to employ in his office a deputy clerk, who shall receive for his services the sum of one thousand dollars per annum, and the sum aforesaid is hereby annually appropriated out of any moneys in the treasury belonging to the general revenue fund for the payment of said salary.

(1881, c. 160, § 1; G. S. 1878, v. 2, c. 7, § 1, subd. 23.)

§ 376. Shall procure records, stationery, etc.

The said clerk, unless otherwise provided for by law, shall procure the necessary records, stationery, lights, fuel and furniture for the use of the supreme court, the same to be paid for out of the state treasury by the proper accounting officers thereof, upon the certificate or order of the said clerk.

(G. S. 1866, c. 6, § 61; G. S. 1878, c. 6, § 63.)

§ 377. Shall personally perform duties.

He shall personally perform all the duties assigned him by law and the rules of the said court. Whenever the clerk is unavoidably absent and unable to perform his duties, his deputy may perform all the duties of said office.

(G. S. 1866, c. 6, § 62; G. S. 1878, c. 6, § 64.)

§ 378. Shall furnish copy of syllabus for publication.

Whenever a syllabus is filed by the judges of the supreme court, as required by law, the clerk shall immediately thereafter make and furnish a copy thereof to the publishers of such daily papers in the city of St. Paul as consent to publish the same without charge, accompanied with the title of the action.

(G. S. 1866, c. 6, § 63; G. S. 1878, c. 6, § 65.)

TITLE 8.

JANITOR.

See ante, § 304.

[TITLE 9.]

RAILROAD AND WAREHOUSE COMMISSION.

§ 379. Application of the act.

(a) That the provisions of this act shall apply to any common carrier or carriers engaged in the transportation of passengers or property wholly by railroad, or partly by railroad and partly by water, when both are used under a common control, management, or arrangement for a carriage or shipment from one place or station to another, both being within the state of Minnesota. Provided, That nothing in this act shall apply to the carriage, storage or handling by any common carrier of property free or at reduced rates for the United States or the state of Minnesota, or for any municipal government or corporation within the state, or for any charitable purpose, or to or from fairs or expositions for exhibition thereat (or stock for breeding purposes), or to the issuance of mileage, excursion or commutation passenger tickets, at rates made equal to all, or to transportation to stock-shippers with cars; and nothing in the provisions of this act shall be construed to prohibit any common carrier from giving reduced rates to ministers of religion, sisters of charity, or to missionaries, or to students of any college or university or other institutions of learning of this state, or to children attending the Minnesota institute for defectives at Faribault, or the school for indigent children at Owatonna, or from issuing passes for the free transportation of passengers subject to the provisions of this act.

375
97 - 155

379
95 . 152 ✓
379-400
60-M - 465
379
99 - 314
379-400
72-NW 713
379-403
99 - 222
379
400 } '05 . 176
177

"Railroad" defined.

(b) The term "railroad" as used in this act shall include all bridges or ferries used or operated in connection with any railroad, and also all the road in use by any corporation operating a railroad, whether owned or operated under a contract, agreement, or lease; and the term "transportation" shall include all instrumentalities of shipment or carriage.

(1887, c. 10, § 1; G. S. 1878, v. 2, c. 6, § 77a; as amended 1889, c. 124.)

§ 380. Charges to be equal and reasonable.

(a) That all charges made by any common carrier, subject to the provisions of this act, for any service rendered or to be rendered in the transportation of passengers or property as aforesaid, or in connection therewith, or for the receiving, delivering, storage, or handling of such property, shall be equal and reasonable; and every unequal and unreasonable charge for such service is prohibited and declared to be unlawful: *provided*, that one car-load of freight of any kind or class shall be transported at as low a rate per ton, and per ton per mile, as any greater number of car-loads of the same kind and class from and to the same points of origination or destination.

Preference unlawful, when.

(b) It shall be unlawful for any common carrier, subject to the provisions of this act, to make or give any unequal or unreasonable preference or advantage to any particular person, company, firm, corporation, or locality, or any particular description of traffic, in any respect whatsoever, or to subject any particular person, company, firm, corporation, or locality, or any particular description of traffic, to any unequal or unreasonable prejudice or disadvantage in any respect whatsoever.

(1887, c. 10, § 2; G. S. 1878, v. 2, c. 6, § 77b.)

Subd. b. A railway company must give equal facilities for the transportation of grain to all persons who erect or desire to erect warehouses at its stations. *Farwell Farmers' Warehouse Ass'n v. Minneapolis, St. P. & S. S. M. Ry. Co.* (Minn.) 56 N. W. Rep. 248.

See *Myers v. Chicago, M. & St. P. Ry. Co.*, 50 Minn. 371, 52 N. W. Rep. 962.

§ 381. Facilities for transfer of traffic.

(a) That all common carriers subject to the provisions of this act shall provide at the point of connection, crossing or intersection ample facilities by track connections for transferring any cars used in the regular business of their respective lines of road from their lines or tracks to those of any other common carrier whose lines or track may connect with, cross or intersect their own, and shall provide equal and reasonable facilities for the interchange of cars and traffic between their respective lines, and for the receiving, forwarding and delivering of passengers, property and cars to and from their several lines and those of other common carriers connecting therewith, and shall not discriminate in their rates or charges between such connecting lines, or on freight coming over such lines.

Joint through freight rates—Transfer of freight.

(b) All railway companies doing business in this state shall, upon the demand of any person or persons interested, establish reasonable joint through rates for the transportation of freight between points on their respective lines within this state. Car load lots shall be transferred without unloading from the cars in which such shipments were first made, unless such unloading into other cars shall be done without charge therefor to the shipper or receiver of such car load lots, and such transfer shall be made without unreasonable delay under such contract arrangements as such connecting companies may make, or under such rules as the board of railroad and warehouse commission may prescribe as hereinafter provided in this act. Less than car load lots shall be transferred into the connecting railway's cars at cost, which shall be included in and made a part of the joint rate adopted by such railway companies, or established as provided by this act. When shipments of freight to be transported between different points within this state are required to be carried by two or more railway companies oper

380
55-M . 8
380
79-M - 188
81-NW 836

381
95 . 91-1

381
68-NW 4

381
74-NW 893

381
71-M - 520
83-NW 61

ating connecting lines, such railway companies shall transport the same at reasonable through rates, and shall at all times give the same facilities and accommodations to local or state traffic as they give to interstate traffic over their lines of road.

Commission may establish joint rates, when—Such rates prima facie evidence, where and of what.

(c) In the event that said railway companies fail to establish through joint rates or fail to establish and charge reasonable rates for such through shipments, or fail to establish between themselves the rates and terms upon which the cars of one company shall be transferred in such through shipments from the line of one company to the other and returned, or fail to provide for the convenient and prompt transfer of such through freight from the cars of the receiving company to those of the connecting line, it shall be the duty of the railroad and warehouse commission of this state, and said commission is hereby directed, upon the application of any person or persons interested, to establish reasonable joint rates for the shipments of freight and cars over any two or more connecting lines of railroad in this state, and to prescribe the reasonable rules under which any such cars so transferred shall be returned; and in establishing, changing or revising any such rates they shall take into consideration the average of rates charged by said railway companies operating such connecting lines for joint interstate shipments for like distances. The rates established by said commission shall go into effect within ten days after the same are promulgated by said commission, and from and after that time the schedule of rates so established shall be prima facie evidence in all the courts of this state that such rates are reasonable through rates for the transportation of freight and cars upon the railroads for which such schedules have been fixed.

May apportion the joint rate, when.

(d) Before the promulgation of such rates or rules as above provided, the railroad and warehouse commission shall notify the railroad companies interested in the schedule of joint rates fixed by them, and they shall give said railroad companies a reasonable time thereafter to agree upon a division of the charges provided for in such schedule; and in the event of the failure of the railway companies to agree upon such a division and to notify the board of such agreement, said commission shall, after a hearing of the companies interested, decide the same, taking into consideration the value of terminal facilities and all the circumstances of the haul, and the division so determined by the commission shall in all controversies or suits between the railroad companies interested be prima facie evidence of the just and reasonable division of such charges.

Penalty for unreasonable charge.

(e) Every unjust and unreasonable charge for the transportation of freight and cars over two or more railroads in this state is hereby prohibited and declared to be unlawful, and every company or person violating the provisions of this section shall be subject to the penalties prescribed in section twelve of the original act* to which this act is amendatory.

* Laws 1887, c. 10.

Railroad may send traffic over its own line in preference to competing line, when.

(f) Nothing herein contained shall be construed as requiring any railroad company to send its cars over the line of railroad of another company when its own line of railroad runs to and reaches the point of destination or the point of connection with another railroad on which such point of destination is located, or to use its track or terminal facilities at terminal points for the handling of cars or traffic of another or competing company; provided, that in no case shall the charge for transportation exceed the established through joint rates between any two points.

Common law liability not to be limited—Exception.

(g) Whenever any property is received by any common carrier subject to the provisions of this act to be transported from one place to another within

this state, it shall be unlawful for such common carrier to limit in any way, except as stated in its classification schedule hereinafter provided for, the common law liability with reference to such property while in its custody as a common carrier; such liability must include the absolute responsibility of the common carrier for the acts of its agents in relation to such property.

(1887, c. 10, § 3; G. S. 1878, v. 2, c. 6, § 77c; as amended 1893, c. 108, § 1.)

Subd. a. Laws 1887, c. 10, § 3, subd. a. is inconsistent with and so far supersedes Laws 1887, c. 14, § 1, as to operate as a repeal of that section. *State v. St. Paul, M. & M. Ry. Co.*, 40 Minn. 353, 42 N. W. Rep. 21.

Subd. b. See *Myers v. Chicago, M. & St. P. Ry. Co.*, 50 Minn. 371, 52 N. W. Rep. 962.

§ 382. Pooling unlawful.

That it shall be unlawful for any common carrier, subject to the provisions of this act, to enter into any contract, agreement, or combination with any other common carrier or carriers for the division or pooling of business of different and competing railroads, or to divide between them the aggregate or net proceeds of the earnings of such railroads, or any portion thereof; and in case of an agreement for the pooling of their business aforesaid each day of its continuance shall be deemed a separate offense.

(1887, c. 10, § 4; G. S. 1878, v. 2, c. 6, § 77d.)

§ 383. Unjust discrimination unlawful—What constitutes.

That if any common carrier, subject to the provisions of this act, shall, directly or indirectly, by any special rate, rebate, drawback, or other device, charge, demand, collect, or receive from any person or persons a greater or less compensation for any service rendered, or to be rendered, in the transportation of passengers, or property subject to the provisions of this act, than it charges, demands, collects, or receives from any other person or persons for doing for him or them a like and contemporaneous service in the transportation of passengers or property, such common carrier shall be deemed guilty of unjust discrimination, which is hereby prohibited and declared to be unlawful.

(1887, c. 10, § 5; G. S. 1878, v. 2, c. 6, § 77e.)

§ 384. Rates for shorter distance not to be greater than for longer distance, when.

That it shall be unlawful for any common carrier, subject to the provisions of this act, to charge or receive any greater compensation for the transportation of passengers, or of like kind or class and quantity of property, for a shorter than for a longer distance over the same line, the shorter being included within the longer distance; but this shall not be construed as authorizing any common carrier, subject to the provisions of this act, to charge or receive as great compensation for a shorter as for a longer distance: *provided, however*, that upon application to the commission appointed under the provisions of this act, such common carrier may, in special cases, after investigation by the commissioners, be authorized to charge less, for longer than for shorter distances, for the transportation of passengers or property; and the commission may from time to time prescribe the extent to which such designated common carrier may be relieved from the operation of this section of this act.

(1887, c. 10, § 6; G. S. 1878, v. 2, c. 6, § 77f.)

§ 385. Freight rate for longer distance not to be greater per ton per mile than for shorter distance, when.

(a) That it shall be unlawful for any common carrier, subject to the provisions of this act, to charge or receive any greater compensation per ton per mile for the contemporaneous transportation of the same class of freight for a longer than for a shorter distance over the same line, in the same general direction, or from the same original point of departure, or to the same point of arrival; but this shall not be construed as authorizing any common carrier, subject to the provisions of this act, to charge as high a rate per ton per mile for a longer as for a shorter distance.

MINNESOTA STATUTES 1894

Tit. 9]

RAILROAD AND WAREHOUSE COMMISSION.

§§ 385-386

Equal division of cars among applicants.

(b) Whenever any railway company doing business in this state shall be unable, from any reasonable cause, to furnish cars at any railway station or side track, in accordance with the demands made by all persons demanding cars at such stations or side tracks for the shipment of grain or other freight, such cars as are furnished shall be divided as equally as may be among the applicants until each shipper shall have received at least one car, when the balance shall be divided ratably in proportion to the amount of daily receipts of grain, or other freight, to each shipper, or to the amount of grain offered at such station on side tracks.

Only one terminal charge for switching cars, when.

(c) There shall in no case be more than one terminal charge for switching or transferring any car, whether the same is loaded or empty, within the limits of any one city or town. If it is necessary that any car pass over the tracks of more than one company, within such city or town limits, in order to reach its final destination, or to be returned therefrom to its owner or owners, then the company first switching or transferring such car shall be entitled to receive the entire charge to be made therefor, and shall be liable to the company or companies doing the subsequent switching or transferring thereof for its or their reasonable and equitable share of the compensation received, and if the companies so jointly interested therein cannot agree upon the share thereof which each is entitled to receive, the same shall be determined by the board of railroad and warehouse commissioners, whose decision thereon shall be final and conclusive upon all parties interested, and the said board are authorized to establish such rules, regulations in that behalf as to them may seem just and reasonable, and not in conflict with this act.

(1887, c. 10, § 7; G. S. 1878, v. 2, c. 6, § 77g.)

§ 386. Schedule of rates at every station—What to contain—Public inspection.

(a) Every common carrier, subject to the provisions of this act, shall, within sixty days after this act shall take effect, print and thereafter keep for public inspection, schedules showing the classification, rates, fares, and charges for the transportation of passengers and property of all kinds and classes which such common carrier has established, and which are in force at the time, upon its railroad, as defined by the first section of this act. This schedule, printed as aforesaid by such common carrier, shall plainly state the places upon its railroad between which property and passengers will be carried, and shall contain "classification of freight" in force upon the lines of such railroad, a distance tariff, and a table of interstation distances, and shall also state separately the terminal charges, and any rules or regulations which in anywise change, affect, or determine any part of the aggregate of such aforesaid rates, fares, and charges. Such schedules shall be plainly printed in large type, and copies, for the use of the public, shall be kept in every depot or station upon any such railroad, in such places and in such form that they can be conveniently inspected.

Notice of change in schedule—How given.

(b) No change of classification shall be made, and no change shall be made in the rates, fares, and charges which have been established and published as aforesaid, by any common carrier, in compliance with the requirements of this section, except after ten days' public notice, which notice shall plainly state the changes proposed to be made in the schedules then in force, and the time when the changed schedules will go into effect, and the proposed changes will be shown by printing new schedules, or shall be plainly indicated upon the schedules in force at the time and kept for public inspection.

386
62-NW . 827
386
97 - 67
60-M - 465
386
99 - 100
69-M - 355

Charging more or less than schedule rate unlawful.

(c) And when any common carrier shall have established and published its classifications, rates, fares, and charges in compliance with the provisions of this section, it shall be unlawful for such common carrier to charge, demand, collect, or receive from any person or persons a greater or less compensation for the transportation of passengers or property, or for any service in connection therewith, than is specified in such published schedule of classifications, rates, fares, and charges as may at the time be in force.

What schedules, etc., to be filed with commission—Joint schedules.

(d) Every common carrier, subject to the provisions of this act, shall file with the commission hereafter provided for in section ten of this act copies of its schedules of classifications, rates, fares, and charges which have been established and published in compliance with the requirements of this section, and shall promptly notify said commission of all changes proposed to be made in the same. Every [such] common carrier shall also file with said commission copies of all contracts, agreements, or arrangements with other common carriers in relation to any traffic affected by the provisions of this act, to which contracts, agreements, or arrangements it may be a party. And in cases where passengers or freight pass over lines or routes operated by more than one common carrier, and the several common carriers operating such lines or routes establish joint schedules of rates or fares, or charges or classifications for such lines or routes, copies of such joint schedules shall also, in like manner, be filed with said commission. Such joint schedules of rates, fare, charges, and classifications, for such lines, so filed as aforesaid, shall also be made public by such common carriers in the same manner as hereinbefore provided for the publication of tariffs upon its own lines.

(1887, c. 10, § 8, subs. a-d; G. S. 1878, v. 2, c. 6, § 77h, subs. a-d.)

Complaint that tariff rate is unreasonable—Hearing before commission, when—Witnesses and documents—Commission to report in writing—Tariff made by commission prima facie evidence of what.

(e) That upon complaint, duly verified, of any person, firm, corporation or association, or any mercantile, agricultural or manufacturing society, or any body politic or municipal organization, that any part of the tariff of rates, fares, charges or classifications so filed and published, as hereinbefore provided, are in any respect unequal or unreasonable, the commission shall forward a copy of such complaint to the common carrier complained of, who shall be called upon to satisfy the complaint, or to answer the same in writing, within a reasonable time, to be specified by the commission, and to serve a copy of such answer on the complainant. If the common carrier shall change the tariff or rates, fares, charges or classifications as demanded by the complaint within the time specified by the commission, proceedings shall be dropped. If the common carrier shall refuse or neglect to make such changes, the commission shall set a time and place for a hearing in the matter, of which at least ten days' notice shall be given to the complainant and the common carrier complained of. Such notice shall be served either by mailing a copy thereof to some general officer of such common carrier, or personally by some person directed to do so by the commission. For the purpose of such investigation the commission shall have the power to require the attendance of witnesses and the production of all books, papers, contracts, agreements and documents that relate to the matter under investigation, and to that end may invoke the aid of any court in this state, requiring the attendance of witnesses and the production of books, papers and documents, under the provisions of this section. Witnesses may be introduced and evidence given by either party at all hearings before the commission. After due consideration by the commission of all the evidence produced at such hearing or hearings, the commission shall make its report in writing to

MINNESOTA STATUTES 1894

Tit. 9]

RAILROAD AND WAREHOUSE COMMISSION.

§§ 386-387

the complainant and to the common carrier complained of. If the tariff of rates, fares, charges and classifications so complained of shall be found by the evidence to be unequal or unreasonable, the commission shall state wherein they are unequal or unreasonable, and shall make a tariff of rates, fares, charges and classifications which shall be substituted for the tariff complained of. Such tariff of rates, fares, charges or classifications, so made by the commission, shall be deemed and taken in all courts of this state as prima facie evidence that the tariff of rates, fares, charges or classifications so made is equal and reasonable, and such tariff so made shall be in full force and effect during the pendency of any appeal that may be taken in the matter to the courts.

Such tariff to be published, when.

(f) In case such common carrier shall neglect or refuse, after the time for appeal as hereinafter provided has expired, to adopt such tariff of rates, fares, charges and classifications, so made by the commission, it shall be the duty of the commission to publish such tariff of rates, fares, charges and classifications as they have declared to be equal and reasonable, in such manner as the commission shall deem expedient, and that thereafter it shall be unlawful for such common carrier to charge or maintain a higher or lower rate, fare, charge or classification than that so fixed by said commission, unless and until a court of competent jurisdiction shall have otherwise ordered and decreed.

(1887, c. 10, § 8, subds. e, f, g; G. S. 1878, v. 2, c. 6, § 77h; as amended 1891, c. 106, § 1, subds. e, f.)

Under this section as originally enacted, it was held that the determination of the commission as to what were equal and reasonable fares and rates was conclusive; and that the authority given them was not a delegation of legislative power, *State v. Chicago, M. & St. P. Ry. Co.*, 38 Minn. 281, 37 N. W. Rep. 782; reversed, on the ground that the act by failing to provide for any hearing before the commissioners was unconstitutional as depriving carriers of their property without due process of law, in so far as it made the decision of the commission final, *Chicago, M. & St. P. Ry. Co. v. State of Minnesota*, 134 U. S. 418, 10 Sup. Ct. Rep. 469, 702. To the same effect, *State v. Minneapolis Eastern Ry. Co.*, 40 Minn. 156, 41 N. W. Rep. 465; reversed, *Minneapolis Eastern Ry. Co. v. State*, 134 U. S. 418, 10 Sup. Ct. Rep. 473. See, also, *Railway Transfer Co. v. Railroad & Warehouse Commission*, 39 Minn. 231, 39 N. W. Rep. 150.

As to the power of the commissioners to regulate switching charges, see *Chicago, M. & St. P. Ry. Co. v. Becker*, 32 Fed. Rep. 849.

§ 387. Railroad and warehouse commission.

(a) A commission is hereby created and established, to be known as the "Railroad and Warehouse Commission of the State of Minnesota," which shall be composed of three commissioners, who shall be appointed by the governor, by and with the advice and consent of the senate.

387
99 - 39

Term of office—Removal—Not to engage in other employment.

(b) The commissioners first appointed under this act shall continue in office for the term of one, two, and three years respectively, and until their successors are appointed and qualified, beginning with the first Monday of January, A. D. 1889; the term of each to be designated by the governor, but their successors shall be appointed for a term of three years, and until their successors are appointed and qualified, except that any person chosen to fill a vacancy shall be appointed only for the unexpired term of the commissioner whom he shall succeed. Any commissioner may be removed by the governor for inefficiency, neglect of duty, or malfeasance in office. Said commissioners shall not engage in any other business, vocation, or employment while acting as such commissioners. No vacancy in the commission shall impair the right of the remaining commissioners to exercise all the powers of the commission.

387b
95 . 91-2

Vacancies—How filled—Who can hold office.

(c) Vacancies occasioned by removal, resignation, or other cause, shall be filled by the governor as provided in case of original appointments. Not

more than two of the commissioners appointed shall be members of the same political party. No person in the employ of, or holding any official relation to, any common carrier, subject to the provisions of this act, or any law of this state, or owning stocks or bonds, or other property thereof, or who is in any manner interested therein, shall enter upon the duties of or hold such office.

Decision of majority—Form of oath.

(d) The decision of a majority of the commission shall be considered the decision of the commission on all questions arising for its consideration. Before entering upon the duties of his office each commissioner shall make and subscribe and file with the secretary of state an affidavit in the following form: "I do solemnly swear (or affirm, as the case may be) that I will support the constitution of the United States, and the constitution of the state of Minnesota, and that I will faithfully discharge my duties as a member of the railroad and warehouse commission of the state of Minnesota, according to the best of my ability; and I further declare that I am not in the employ of, or holding any official relation to, any common carrier within this state; nor am I in any manner interested in any stock, bonds, or other property of such common carrier."

Bond.

(e) Each commissioner so appointed and qualified shall enter into bonds of the state of Minnesota, to be approved by the governor, in the sum of twenty thousand dollars, conditioned for the faithful performance of his duty as a member of such commission, which bond shall be filed with the secretary of state.

Procedure—Quorum—Rules—Records—Seal—May administer oath—General sessions at principal office.

(f) The commission shall conduct its proceedings in such a manner as will best conduce to the proper dispatch of business and to the ends of justice. A majority of the commissioners shall constitute a quorum for the transaction of business, but no commissioner shall participate in any hearing or proceeding in which he has any pecuniary interest. Said commissioner may from time to time make or amend such general rules or orders as may be requisite for the order and regulation of proceedings before it, including forms of notices and service thereof, which shall conform as nearly as may be to those in use in the courts of this state. Any party may appear before said commission and be heard in person or by attorney. Every vote and official act of the commission shall be entered of record, and its proceedings shall be public upon the request of either party interested, or at the discretion of the commission. Said commission shall have an official seal which shall be judicially noticed. Any member of the commission may administer oaths and affirmations. The principal office of the commission shall be in the city of St. Paul, where its general sessions shall be held.

Special sessions, when and where.

(g) Whenever the convenience of the public, or of the parties, may be promoted, or delay or expenses prevented thereby, the commission may hold special sessions in any part of the state. It may, by one or more of the commissioners, prosecute any inquiry necessary to its duties in any part of the state, into any matter or question of fact pertaining to the business of any common carrier subject to the provisions of this act.

Attorney general shall be attorney for commission—County attorneys, when.

(h) The attorney general of the state of Minnesota shall be *ex officio* attorney for the commission, and shall give them such counsel and advice as they

MINNESOTA STATUTES 1894

Tit. 9]

RAILROAD AND WAREHOUSE COMMISSION.

§§ 387-388

may from time to time require; and he shall institute and prosecute any and all suits which said railroad and warehouse commission may deem it expedient and proper to institute; and he shall render to such railroad and warehouse commission all counsel, advice, and assistance necessary to carry out the provisions of this act, or of any law of this state, according to the true intent and meaning thereof. It shall likewise be the duty of the county attorney of any county in which suit is instituted or prosecuted, to aid in the prosecution of the same to a final issue upon the request of such commission. Said commission are hereby authorized, when the facts in any given case shall in their judgment warrant, to employ any and all additional legal counsel that they may think proper, expedient, and necessary to assist the attorney general or any county attorney in the conduct and prosecution of any suit they may determine to bring under the provisions of this act, or of any law of this state.

(1887, c. 10, § 9; G. S. 1878, v. 2, c. 6, § 771.)

See § 7701.

Subd. h. See *State v. St. Paul, M. & M. Ry. Co.*, 40 Minn. 353, 358, 42 N. W. Rep. 21.

§ 388. Powers and duties of commission.

(a) That the commission hereby created shall have authority to inquire into the management of the business of all common carriers, subject to the provisions of this act, and shall keep itself informed as to the manner and method in which the same is conducted, and shall have the right to obtain from such common carriers full and complete information necessary to enable the commission to perform the duties and carry out the objects for which it was created. In order to enable said commissioners efficiently to perform their duties under this act, it is hereby made their duty to cause one of their number to visit the various stations on the lines of each railroad as often as practicable, after giving twenty days' notice of such visit and the time and place thereof in the local newspapers, and at least once in twelve months to visit each county in the state in which is or shall be located a railroad station, and personally inquire into the management of such railroad business; and for this purpose, all railroad companies and common carriers, and their officers and employes, are required to aid and furnish each member of the railroad and warehouse commission with reasonable and proper facilities, and each or all of the members of said commission shall have the right, in his or their official capacity, to pass free on any railroad trains on all railroads in this state, and to enter and remain in, at all suitable times, any and all cars, offices, or depots, or upon the railroads of any railroad company, in this state in the performance of official duties. And whenever, in the judgment of the commission, it shall appear that any common carrier fails in any respect or particular to comply with the laws of this state, or whenever, in their judgment, any repairs are necessary upon its railroad, or any addition to or change of its stations or station-houses is necessary, or any change in the mode of operating its road or conducting its business is reasonable or expedient in order to promote the security, convenience, and accommodation of the public, said commission shall inform such railroad company, by a notice thereof in writing, to be served as a summons in civil actions is required to be served by the statutes of this state in actions against corporations, certified by the commission's clerk or secretary, and if such common carrier shall neglect or refuse to comply with such order, then the commission may, in its discretion, cause suits or proceedings to be instituted to enforce its orders, as provided in this act.

(1887, c. 10, § 10; G. S. 1878, v. 2, c. 6, § 77j.)

No appeal lies to the district court from an order relating to the mode of operating a railway pursuant to this section. Objection to such an order can only be made by way of defense to an action brought to enforce it. *Minneapolis & St. L. Ry. Co. v. Railroad & Warehouse Commission*, 44 Minn. 336, 46 N. W. Rep. 559.

See *Commonwealth v. Housatonic R. R.*, (Mass.) 9 N. E. Rep. 547; *People v. New York, L. E. & W. R. Co.*, (N. Y.) 9 N. E. Rep. 556; *New York, L. E. & W. R. Co. v. New York, L. & W. R. Co.*, (N. Y.) 2 N. E. Rep. 35.

388
~~90 - 78~~
 90 - 100 ✓
 66-M - 272

 388
 76-M - 473
 79-NW 510

 388
~~705 - 122~~
~~705 - 196~~ ✓
~~705 - 279~~ ✓
~~705 - 280~~
~~705 - 287~~

§ 389. Liability of carrier for violation of this act.

(a) That in case any common carrier, subject to the provisions of this act, shall do, cause to be done, or permit to be done, any act or thing in this act prohibited, or declared to be unlawful, or shall omit to do any act, matter, or thing in this act required to be done, such common carrier shall be liable to the person or persons, party or parties, injured thereby, for the full amount of damages sustained in consequence of any such violation of the provisions of this act, together with a reasonable counsel or attorney's fee to be fixed by the court in every case of recovery, which attorney's fees shall be taxed and collected as part of the costs in the case.

Complaint to commission, or suit by injured party.

(b) That any person or persons, party or parties, claiming to be damaged by the action or non-action of any common carrier, subject to the provisions of this act, may either make complaint to the commission, as hereinafter provided for, or may bring suit in his or their own behalf for the recovery of the damages for which such common carrier may be liable under the provisions of this act, in any district court of this state, of competent jurisdiction, but such person or persons shall not have the right to pursue both of said remedies at the same time.

Court may compel defendant's officers to testify.

(c) In any action brought for the recovery of damages the court before which the same shall be pending may compel any director, officer, receiver, trustee, or agent of any corporation or company, defendant in such suit, to attend, appear, and testify in such case, and may compel the production of the books and papers of such corporation or company, party to any such suit; the claim that any such testimony or evidence may tend to criminate the person giving such evidence shall not excuse such witness from testifying, but such evidence or testimony shall not be used against such person on the trial of any criminal proceeding.

(1887, c. 10, § 11; G. S. 1878, v. 2, c. 6, § 77k.)

See Minneapolis & St. L. Ry. Co. v Railroad & Warehouse Commission, cited in note to § 388, supra.

§ 390. What constitutes violation of act—Penalty.

That any common carrier, subject to the provisions of this act, or, whenever such common carrier is a corporation, any director or officer thereof, or any receiver, trustee, lessee, agent, or person acting for, or employed by, such corporation, who, alone or with any other corporation, company, person, or party, shall willfully do or cause to be done, or shall willfully suffer or permit to be done, any act, matter, or thing in this act prohibited or declared to be unlawful, or who shall aid or abet therein, or shall willfully omit or fail to do any act, matter, or thing in this act required to be done, or shall cause or willingly suffer or permit any act, matter, or thing, so directed or required by this act to be done, not to be so done, or shall aid and abet therein any such omission, or shall be guilty of any willful infraction of this act, or shall aid or abet therein, shall be deemed guilty of a violation of the provisions of this act, and shall, upon conviction thereof in any district court of the state within the jurisdiction of which such offense was committed, be subject to a penalty of not less than two thousand five hundred dollars or more than five thousand dollars for the first offense, and not less than five thousand dollars or more than ten thousand dollars for each subsequent offense.

(1887, c. 10, § 12; G. S. 1878, v. 2, c. 6, § 77l.)

§ 391. Persons aggrieved may petition commission.

(a) That any person, firm, corporation, or association, or any mercantile, agricultural, or manufacturing society, or any body politic or municipal organization, complaining of anything done or omitted to be done by any com-

mon carrier subject to the provisions of this act, in contravention of the provisions thereof, may apply to said commission by petition, which shall briefly state the facts.

(1887, c. 10, § 13, subd. a; G. S. 1878, v. 2, c. 6, § 77m, subd. a.)

Hearing—Notice of hearing—Absence of direct damage no ground for dismissal—Witnesses and documents.

(b) Whereupon a statement of the charges so made shall be forwarded by the commission to such common carrier, who shall be called upon to satisfy the complaint or to answer the same in writing within a reasonable time, to be specified by the commission, and to serve a copy of such answer upon the complainant. If such common carrier, within the time specified, shall make reparation for the injury alleged to have been done, said carrier shall be relieved of liability to the complainant only for the particular violation of law thus complained of. If such common carrier shall not satisfy the complaint within the time specified, and if it shall appear to the commission that there is reasonable ground for investigating the matter set out in said complaint, the commission shall name a time and place when and where a hearing will be had before the commission in the matter complained of. Notice of all hearings before the commission, not only under this section but under all other sections of this act, where hearings are contemplated, shall be given by the commission or by the secretary of said commission, by causing to be mailed to the complainant in the case a copy of the notice of such hearing at his reputed place of residence, postage prepaid, at least ten days before the day named as the day of hearing in said notice, and also by causing a copy of such notice of hearing to be mailed, at least ten days before the day named as the day of hearing in said notice, properly directed, postage prepaid, to any division superintendent, general or assistant superintendent, general manager, president, vice president or secretary of the common carrier complained of, at the place in the state of Minnesota where the main business of such common carrier is transacted. Provided, That whenever the complainant or common carrier has appeared by an attorney, thereafter such service may be made upon such attorney. Such service shall be taken and held in all cases to be a legal service; appearance in any case shall be taken and deemed a waiver of any defect in the notice of such hearing or any irregularities of the service thereof. No complaint shall at any time be dismissed because of the absence of direct damages to the complainant, and for the purpose of this act the commission shall have power to require the attendance of witnesses and the production of all books, papers, contracts, agreements and documents relating to any matter under investigation, and to that end may invoke the aid of any court of this state in requiring the attendance of witnesses and the production of all books, papers, contracts, agreements and documents relating to any matter under investigation, under the provisions of this act.

(1887, c. 10, § 13, subd. b; G. S. 1878, v. 2, c. 6, § 77m, subd. b; as amended 1891, c. 106, § 2.)

District court may order carrier to show cause, when.

(c) Any of the district courts of this state, within the jurisdiction of which such inquiry is carried on, shall, in case of contumacy or refusal to obey a subpoena issued by the commissioners to any common carrier subject to the provisions of this act, or when such common carrier is a corporation, to an officer or agent thereof, or to any person connected therewith, if proceedings are instituted in the name of such commission as plaintiffs, issue an order requiring such common carrier, officer or agent, or person to show cause why such contumacy or refusal should not be punished as and for contempt, and if upon the hearing the court finds that the inquiry is within the jurisdiction of the commission, and that such contumacy or refusal is willful and the same is persisted in, such contumacy or refusal shall be punished as though the same had taken place in an action pending in the district court for any judicial district in this state. The claim that any such testimony or evidence may tend to criminate the person giving such evidence shall not excuse such wit-

ness from testifying; but such evidence or testimony shall not be used against such persons on the trial of any criminal proceeding.

(1887, c. 10, § 13, subd. c; G. S. 1878, v. 2, c. 6, § 77m, subd. c.)

See *Minneapolis & St. L. Ry. Co. v. Railroad & Warehouse Commission*, 44 Minn. 336, 338, 46 N. W. Rep. 559.

392
83-NW 61

§ 392. Report to be in writing—What to include—Record.

(a) Whenever an investigation shall be made by said commission, it shall be its duty to make a report in writing in respect thereto, which shall include the findings of fact upon which the conclusions of the commission are based, together with its recommendation as to what reparation, if any, should be made by the common carrier to party or parties who may be found to have been injured; and such findings so made shall thereafter, in all judicial proceedings, be deemed *prima facie* evidence as to each and every fact found. All reports of investigations made by the commission shall be entered of record, and a copy thereof shall be furnished to the party who may have complained, and to any common carrier that may have been complained of, and the record thereof shall be public.

Notice to carrier with copy of report, when.

(b) If in any case in which an investigation shall be made by said commission it shall be made to appear to the satisfaction of the commission, either by testimony of witnesses or other evidence, that anything has been done or omitted to be done by any common carrier, in violation of the provisions of this act, or of any law cognizable by said commission, or that any injury or damages has been sustained by the party or parties complaining, or by other parties aggrieved in consequence of any such violation, it shall be the duty of the commission to forthwith cause a copy of its report in respect thereto to be delivered to such common carrier, together with a notice to said common carrier to cease and desist from such violation and to make reparation for the injury so found to have been done, within a brief but reasonable time, to be specified by the commission; and if, within the time specified, it shall be made to appear to the commission that such common carrier has ceased from such violation of law, and has made reparation for the injury found to have been done, in compliance with the report and notice of the commission, or to the satisfaction of the party complaining, a statement to that effect shall be entered of record by the commission, and the said common carrier shall thereupon be relieved from further liability or penalty for such particular violation of law.

Violation to be reported to attorney general, when.

(c) But if said common carrier shall neglect or refuse, within the time specified, to desist from such violation of law, and make reparation for the injury done in compliance with the report and notice of the commission as aforesaid, it shall be the duty of the commission to forthwith certify the fact of such neglect or refusal, and forward a copy of its report and such certificate to the attorney general of the state for redress and punishment as hereinafter provided.

(1887, c. 10, § 14; G. S. 1878, v. 2, c. 6, § 77n.)

See *Minneapolis & St. L. Ry. Co. v. Railroad & Warehouse Commission*, 44 Minn. 336, 338, 46 N. W. Rep. 559.

§ 393. Suit by attorney general.

(a) That it shall be the duty of the attorney general to whom said commission may forward its report and certificate, as provided in the next preceding section of this act, when it shall appear from such report that any injury or damage has been sustained by any party or parties by reason of such violation of law by such common carrier, to forthwith cause suit to be brought in the district court in the judicial district wherein such violation occurred, on behalf and in the name of the person or persons injured, against such common carrier, for the recovery of damages for such injury as may have been sus-

393
97 - 288
60-M - 465
393
69-M - 375
69-M - 417
393
83-NW 60

tained by the injured party; and the cost and expenses of such prosecution shall be paid out of the appropriation hereinafter provided for, for the uses and purposes of this act.

District court to hear and determine—Procedure.

(b) And the said court shall have power to hear and determine the matter on such short notice to the common carrier complained of as the court shall deem reasonable; and such notice shall be served on such common carrier, his or its officers, agents, or servants, in such manner as the court shall direct; and said court shall proceed to hear and determine the matter speedily, and without the formal pleading and proceedings applicable to ordinary suits in equity, but in such manner as to do justice in the premises; and to this end such court shall have power, if it thinks fit, to direct and prosecute, in such mode and by such persons as it may appoint, all such inquiries as the court may think needful to enable it to form a just judgment in the matter of such petition. And on such hearing the report of said commission shall be *prima facie* evidence of the matters therein stated.

Court to restrain carrier, when—May fine for failure to obey—When appeal not to operate as stay—Costs.

(c) And if it be made to appear to such court, on such hearing, or on report of any such person or persons, that the lawful order or requirement of such commission, drawn in question, has been violated or disobeyed, it shall be lawful for such court to issue a writ of injunction, or other proper process, mandatory or otherwise, to restrain such common carrier from further continuing such violation or such disobedience of such order or requirement of said commission, and enjoining obedience to the same; and in case of any disobedience of any such writ of injunction or other proper process, mandatory or otherwise, it shall be lawful for such court to issue writs of attachment, or any other process of said court incident or applicable to writs of injunction or other proper process, mandatory or otherwise, against such common carrier; and if a corporation, against one or more of the directors, officers, or agents of the same, or against any owner, lessee, trustee, receiver, or other person failing to obey such writ of injunction or other proper process, mandatory or otherwise; and said court may, if it shall think fit, make an order directing such common carrier or other person so disobeying such writ of injunction or other proper process, mandatory or otherwise, to pay such sum of money, not exceeding for each carrier or person in default the sum of five hundred dollars for every day after a day to be named in the order, that such carrier or other person shall fail to obey such injunction or other proper process, mandatory or otherwise; and such moneys shall be payable as the court shall direct, either to the party complaining, or into court to abide the ultimate decision of the court; and payment thereof may, without prejudice to any other mode of recovering the same, be enforced by attachment or order in the nature of a writ of execution, in like manner as if the same had been recovered by a final decree *in personam* in such court. Either party to such proceeding before said court may appeal to the supreme court of the state, under the same regulations now provided by law in respect to security for such appeal; but such appeal shall not operate to stay or supersede the order of the court or the execution of any writ or process thereon, unless the court hearing or deciding such case should otherwise direct; and such court may, in every such matter, order the payment of such costs and counsel fees as shall be deemed reasonable.

(1887, c. 10, § 15, subds. a-c; G. S. 1878, v. 2, c. 6, § 770, subds. a-c.)

Appeal from order of commission—Jurisdiction of district court—When appeal not to operate as stay.

(d) Any railroad company or common carrier affected by any order of the commission, except administrative orders, made pursuant to section ten

of Chapter ten of the General Laws of one thousand eight hundred and eighty-seven may at any time within the period of thirty days after the service of it upon him or it of such order, appeal therefrom to the district court of any judicial district through or into which his or its route may run, by the service of a written notice of such appeal on some member or the secretary of such commission. And upon the taking of such appeal and the filing of the notice thereof, with the proof of service, in the office of the clerk district court, there shall then be pending in such district court a civil action of the character and for the purposes mentioned in sections eight, eleven and fifteen of Chapter ten of the General Laws of one thousand eight hundred and eighty-seven, as amended by this act. Upon such appeal, and upon the hearing of any application by the commission or by the attorney general, for the enforcement of any such order made by the commission, the district court shall have jurisdiction to, and it shall, examine the whole matter in controversy, including matters of fact as well as questions of law, and to affirm, modify or reverse such order in whole or in part, as justice may require; and in case of any order being modified, as aforesaid, such modified order shall, for all the purposes contemplated by this act, stand in place of the original order so modified and have the same force and effect throughout the state as the orders of said commission. No appeal as aforesaid shall stay or supersede the order appealed from unless the court hearing and deciding such case, upon application and notice to the other party, shall so direct. The remedies herein provided for shall be in addition to all existing legal and equitable remedies.

(1887, c. 10, § 15, subd. d; G. S. 1878, v. 2, c. 6, § 77o, subd. d; as amended 1891, c. 106, § 3.)

See note to § 386.

§ 394. Commission may prosecute carrier for violation of law—Payment of penalties.

(a) That whenever facts, in any manner ascertained by said commission, shall, in its judgment warrant a prosecution, it shall be the duty of said commission to immediately cause suit to be instituted and prosecuted against any common carrier who may violate any of the provisions of this act, or of any law of this state. All such prosecutions shall be in the name of the state of Minnesota, except as is otherwise provided in this act, or in any law of this state, and may be instituted in any county in the state through or into which the line of any common carrier so sued may extend, and all penalties recovered under the provisions of this act, or of any law of this state, in any suit instituted in the name of the state, shall be immediately paid into the state treasury by the sheriff or other officer or person collecting the same; and the same shall be by the state treasurer placed to the credit of the general revenue fund.

District court always in session, when.

(b) For the purposes of this act, except its penal provisions, the district courts of this state shall be deemed to be always in session.

(1887, c. 10, § 16; G. S. 1878, v. 2, c. 6, § 77p.)

§ 395. To require annual report from carriers—What to contain.

(a) The commission is hereby directed to require annual reports from all common carriers subject to the provisions of this act, to fix the time and prescribe the manner in which said reports shall be made, and to require from such carriers specific answers to all questions upon which the commission may need information. Such annual reports shall show in detail the amount of capital stock issued, the amounts paid therefor, and the manner of payment for the same, the dividends paid, the surplus fund, if any, and the number of stockholders, the funded and floating debts, and the interest paid thereon; the cost and value of the carrier's property, franchises, and equipment, the number of employes, and the salary paid each class, the amounts expended for im-

provements each year, how expended, and the character of such improvements; the earnings and receipts of each branch of business, and from all sources; the operating and other expenses; the balance of profit and loss; and a complete exhibit of the financial operations of the carrier each year, including an annual balance-sheet; also the total number of acres of land received as grants either from the United States or from the state of Minnesota, the number acres of said grants sold, and the average price received per acre, the number acres of grants unsold, and the appraised value per acre. Such detailed reports shall also contain such information in relation to rates and regulations concerning fares or freights, and agreements, arrangements, or contracts with express companies, telegraph companies, sleeping and dining car companies, fast freight lines, and other common carriers, as the commission may require, with copies of such contracts, agreements, or arrangements.

Uniform system of accounts may be prescribed, when.

(b) And the commission may, within its discretion, for the purpose of enabling it the better to carry out the purposes of this act, prescribe (if in the opinion of the commission it is practicable to prescribe such uniformity and methods of keeping accounts) a period of time within which all common carriers, subject to the provisions of this act, shall have, as near as may be, a uniform system of accounts, and the manner in which such accounts shall be kept.

(1887, c. 10, § 17; G. S. 1878, v. 2, c. 6, § 77q.)

§ 396. Commission to make annual report.

(a) That such commissioners shall, on or before the first day of December in each year, and oftener if required by the governor to do so, make a report to the governor of their doings for the preceding year, containing such facts, statements, and explanations as will disclose the actual workings of the system of railroad transportation in its bearings upon the business and prosperity of the people of this state, and such suggestions in relation thereto as to them may seem appropriate.

See § 284.

To make special reports, when.

(b) They shall also, at such times as the governor shall direct, examine any particular subject connected with the conditions and management of such railroads, and report to him in writing their opinion thereon, with their reasons therefor. Said commissioners shall also investigate and consider what, if any, amendment or revision of the railroad laws of this state the best interest of the state may demand, and they shall make a special biennial report on said subject to the governor. All such reports made to the governor shall be by him transmitted to the legislature at the earliest practicable time.

Existing remedies preserved—Pending litigation.

(c) Nothing in this act contained shall in any way abridge or alter the remedies now existing at common law or by statute, but the provisions of this act are in addition to such remedies: *provided*, that no pending litigation shall in any way be affected by this act.

(1887, c. 10, § 18; G. S. 1878, v. 2, c. 6, § 77r.)

§ 397. Salaries—Secretary—Form of oath—Bond—Other persons employed, when—Office—Witness fees—Expenses.

Each commissioner shall receive an annual salary of three thousand dollars, payable in the same manner as the salaries of other state officers. The commissioners shall appoint a secretary, who shall receive an annual salary of eighteen hundred dollars, payable in like manner. Said secretary shall, before entering upon the duties of his office, make and file with the secretary of state an affidavit in the following form: "I do solemnly swear or affirm (as the case may be) that I will support the constitution of the United States and

the constitution of the state of Minnesota, and that I will faithfully discharge my duties as secretary of the railroad and warehouse commission of the state of Minnesota, according to the best of my ability; and I further declare that I am not in the employ of, or holding any official relation to, any common carrier or grain warehouseman, within said state; nor am I, in any manner, interested in any stock, bonds, or other property of such common carrier or grain warehouseman." The said secretary so appointed and qualified shall enter into bonds to the state of Minnesota, to be approved by the governor, in the sum of ten thousand dollars, conditioned for the faithful performance of his duty as secretary of such commission, which bond shall be filed with the secretary of state. The commission shall have authority to employ and fix the compensation for such other employes as it may find necessary to the proper performance of its duties, subject to the approval of the governor of the state. The commissioners shall be furnished with a suitable office and all necessary office supplies. Witnesses summoned before the commission shall be paid the same fees and mileage that are paid witnesses in the district courts of the state. All the expenses of the commission, including all necessary expenses for transportation incurred by the commissioners, or by their employes under their order, in making any investigation in any other place than the city of St. Paul, shall be allowed and paid out of the state treasury on the presentation of itemized vouchers therefor, approved by the chairman of the commission and the state auditor.

(1887, c. 10, § 19; G. S. 1878, v. 2, c. 6, § 77s.)

§ 20 appropriates, for the year 1889, \$15,000 for the purposes of this act.

§ 398. Inconsistent acts repealed.

All acts and parts of acts inconsistent herewith are hereby repealed: *provided*, that the provisions of this act shall apply to and govern the existing railroad and warehouse commissioners appointed by virtue of an act approved March fifth, eighteen hundred and eighty-five, who are hereby clothed with the powers and charged with the duties and responsibilities of this act, granted to and imposed upon the railroad and warehouse commissioners of the state of Minnesota.

(1887, c. 10, § 21; G. S. 1878, v. 2, c. 6, § 77u.)

§ 399. Jurisdiction of district court to pass upon failure of carrier to obey commission—What process may issue—Appeal to supreme court not to operate as stay—Jury trial, when—Selection of jury.

That whenever any common carrier, as defined in and subject to the provisions of this act, shall violate, or refuse or neglect to obey or perform any lawful order or requirement of the commission made under the provisions of this act, not founded upon a controversy requiring a trial by jury, as provided by the seventh amendment to the Constitution of the United States, or as provided by section four of the Constitution of this state, it shall be lawful for the commission, or for any company or person interested in such order or requirement, to apply in a summary way, by petition to any district court in any county in this state in which the carrier complained of has its principal office, or in any county through or into which its line of road extends, alleging such violation or disobedience, as the case may be; and the said court shall have power to hear and determine the matter, on such short notice to the common carrier complained of as the court shall deem reasonable; and such notice may be served on such common carrier, his or its officers, agents or servants, in such manner as the court shall direct; and said court shall proceed to hear and determine the matter speedily and without the formal pleadings and proceedings applicable to ordinary suits further than is necessary in the judgment of the court to clearly define the issues between the parties, and in such manner as to do justice in the premises. To this end the court shall have power, if it think fit, to direct and

399 -
68-NW1085

399
60-M - 271

399
76-M - 475
79-NW 511

prosecute, in such mode and by such persons as it may appoint, all such inquiries as the court may think needful to form a just judgment in the matter of such petition; and on such hearing the findings of fact in the report of said commission shall be prima facie evidence of the matters therein stated; and if it be made to appear to such court, on such hearing, or on the report of any person or persons, that the lawful order or requirement of said commission drawn in question has been violated or disobeyed, it shall be lawful for such court to issue a writ of injunction or other process, mandatory or otherwise, to restrain such common carrier from further continuing such violation or disobedience of such order or requirement of said commission, and enjoining obedience to the same; and in case of any disobedience of any such writ of injunction or other proper process, mandatory or otherwise, it shall be lawful for such courts to issue writs of attachment, or any other process of said court incident or applicable to writs of injunction or other proper process, mandatory or otherwise, against such common carrier, and, if a corporation, against one or more of the directors, officers or agents of the same, or against any owner, lessee, trustee, receiver or other person failing to obey such writ of injunction or other proper process, mandatory or otherwise; and said court may, if it shall think fit, make an order directing such common carrier or other person so disobeying such writ of injunction or other proper process, mandatory or otherwise, to pay such sum of money, not exceeding for each carrier or person in default the sum of five hundred dollars for every day after a day named in the order that such person or carrier shall fail to obey such injunction or other process, mandatory or otherwise, and such money shall be payable as the court shall direct, either to the party complaining or into court, to abide the ultimate decision of the court, or into the state treasury; and payment thereof may, without prejudice to any other mode of recovering the same, be enforced by an attachment or order in the nature of a writ of execution, in like manner as if the same had been recovered by a final judgment or decree in personam and in such court. Either party to any appeal, trial or other proceeding had in the district court pursuant to the provisions of this act shall have the right of appeal to the supreme court of the state from any order or judgment of the district court under the same regulations now provided by law in relation to appeals to said supreme court from orders or judgments of the district court, except that on such appeals security shall not be required when the same is taken by said commission, and except that the return of the district court provided for by section four, Chapter eighty-six, General Statutes of one thousand eight hundred and seventy-eight, may be filed in the supreme court at any time before or during the next succeeding term of said court after the making of the order or entering the judgment appealed from; and such appeal shall be entered upon the calendar and heard by said supreme court upon such short notice to the respective parties as the court may deem reasonable, with a view to a speedy determination of the same. No appeal to the supreme court shall operate to stay or supersede an order in force at the time the appeal is taken, unless the supreme court shall, upon application duly made and upon such terms as it may deem just, suspend the operation of the order pending the appeal hereinbefore provided for. If the matters involved in such order or requirement of said commission are founded upon a controversy which at common law would entitle the party to a trial by jury, as provided by the seventh amendment to the Constitution of the United States, or by section four, article one of the Constitution of this state, and any such common carrier shall violate or refuse or neglect to obey or perform the same, after notice given by said commission, as provided in subdivision (b) (as amended hereby) of section thirteen of this act, it shall be lawful for any company or person interested in such order or requirement to apply in a summary way by petition to the district court of any judicial district in this state, in which the carrier complained of has its principal office or in which the violation or disobedience of such order or requirement shall happen, alleging such violation or disobedience, as the case may be; and such court shall by its order then fix a time and place for the trial of said cause, which shall not be less than twenty nor more than forty days from the time of said order fixing said time of trial; and it shall be the duty of the sheriff of the county in which such proceeding is

MINNESOTA STATUTES 1894

§§ 399-401

STATE OFFICERS.

[Ch. 6

pending to forthwith serve a copy of said petition and of said order upon the common carrier complained of, and it shall be the duty of such person or common carrier to file his or its answer to said petition within ten days after the service thereof, as aforesaid. Upon the trial of said cause the findings of fact of said commission as set forth in its report shall be prima facie evidence of the matters therein stated, and if either party, being entitled to a trial by jury, as in this act provided, shall demand a jury, or shall omit to waive a jury, the court shall by its order direct the sheriff to select, in the presence of the parties or their attorneys, from the number of persons qualified to serve as jurors in the county, thirty such persons as he shall deem most indifferent between the parties, and the complainant or petitioner shall first strike off one of the names so selected, and the opposite party shall strike off one, until each shall have struck off eight. The sheriff shall then make a copy of the names of the remaining fifteen persons and deliver the same to the clerk of said court, who shall thereupon issue and deliver to such sheriff a venire facias, with the names in said list contained, annexed thereto, and such sheriff shall summon the persons named according to the demand of such writ; and upon the trial of the cause the jury so selected shall be called as they stand upon their panel, and the first twelve of them who shall appear and are not challenged for cause, or set aside by the court, shall be the jury, and shall be sworn to try the issues joined in said cause or proceedings; Provided, That if a sufficient number do not appear for the trial of said cause the court shall cause talesmen to be called as in other cases. If the judgment of a district court shall be in favor of the party complaining, he or they shall be entitled to recover a reasonable counsel or attorney's fees, which shall be collected as part of the costs in this case. For the purpose of this act, excepting its penal provisions, the district courts of this state shall be deemed to be always in session.

(1887, c. 10, as amended 1891, c. 106, § 4.)

§ 400. Mandamus to issue, when—Security for compensation—Peremptory mandamus may issue, pending determination of facts.

Any of the district courts of this state shall have jurisdiction upon the relation of any person or persons, firm or corporation, alleging such violation by such common carrier of any of the provisions of this act, and all acts amendatory thereof, as prevents the relator from having traffic moved by said common carrier at the same rates as are charged or upon terms and conditions as favorable as those given by said common carrier for like traffic under similar conditions to any other shipper, to issue a writ of mandamus against said common carrier demanding such common carrier to move or transport the traffic, or to furnish cars or other facilities for transportation for the party applying for the writ; Provided, That nothing in this act shall be construed as repealing or modifying subdivision (b) of section seven of Chapter ten of the General Laws of one thousand eight hundred and eighty-seven. Provided, That if any question of fact as to the proper compensation to the common carrier for the service to be enforced by the writ is raised by the pleadings, the writ of peremptory mandamus may issue, notwithstanding such question of fact is undetermined, upon such terms as to security, payment of the money into court or otherwise, as the court may think proper, pending the determination of the question of fact. Provided, That the remedy hereby given by writ of mandamus shall be cumulative, and shall not be held to exclude or interfere with other remedies provided by this act or of any act amendatory thereof.

(1887, c. 10, as amended 1891, c. 106, § 5.)

§ 401. Heating and lighting cars—Duty and powers of commission—Upper berths in sleeping cars.

It shall be the duty of the railroad commissioners of the state to make careful and diligent inquiry into the construction of, and the best means of heating and lighting, passenger and sleeping cars, run on any of the railroads within this state, with special reference to the safety of the passengers traveling therein, and more particularly to their safety from accident by fire;

and the said commissioners shall make a special report on the subject to the legislature at the next regular session thereof: *provided*, that said commissioners may, if in their opinion the safety of the passengers should require it, give notice in writing to any railroad company or corporation, incorporated under the laws of this state, or doing business herein, that said companies or corporations, or either of them, shall, at a day to be designated in said notice, and not less than sixty days after the service of the same, cease and abandon the use of kerosene and all other oils, also illuminating or combustible fluids, in said cars for the purpose of lighting the same: *and provided, further*, that said companies shall, within sixty days from the passage of this act, adopt and put in use upon all sleeping cars operated by them within the limits of the state, some invention or appliance, subject to the approval of said commissioners, better calculated to prevent the shutting or closing of the upper berths of said cars in case of the overturning of such cars, or of other accidents, than the means now in common use for the purpose.

(1887, c. 18, § 1; G. S. 1878, v. 2, c. 6, § 77v.)

**§ 402. Fire-extinguishers and tools in passenger cars—
Equipment of cars.**

Each of said railroad companies shall, within sixty days after the passage of this act, equip each passenger and sleeping car, run or operated by it within the state, with fire-extinguishers for the extinguishment of fire, one to be kept in each end of each of such cars, to be maintained in good condition for use and in a safe and convenient position; and each of said companies shall also equip and provide each of such cars with two axes and two saws, one of each of such tools to be kept upon the inside and one of each upon the outside of each car, and to be kept in convenient places for use in case of accident.

(1887, c. 18, § 2; G. S. 1878, v. 2, c. 6, § 77w.)

§ 403. Violation of this act—Penalty.

The neglect to comply with any of the provisions of this act, is hereby declared to be unlawful; and any railroad company or corporation which shall do or cause to be done any act or thing forbidden to be done, or which shall neglect to do any act or matter which is enjoined and required by any provision of this act, shall be guilty of a misdemeanor, and shall, upon conviction thereof in any court of this state within whose jurisdiction such offense was committed, be subject to a fine of not more than one thousand dollars for each offense: *provided, however*, its principal officer or traffic manager, by whatever name called, or the agent or person who shall be guilty of any such violation of this act, shall be personally liable as and for a misdemeanor; and, upon conviction thereof in any court of this state within whose jurisdiction such offense was committed, shall be subject to a fine of not more than one thousand dollars for each offense: *provided*, that the operation of sections two and three of this act may be modified, suspended, or nullified by the board of railroad and warehouse commissioners of the state, in their discretion.

(1887, c. 18, § 3; G. S. 1878, v. 2, c. 6, § 77x.)

[TITLE 10.]

COMMISSIONER OF STATISTICS.

§ 404. Duties of commissioner of statistics.

It shall be the duty of the commissioner of statistics annually to collect and compile, from official and any other reliable source, the statistics of the state of Minnesota pertaining to its agriculture, manufactures and population, including statistics relating to all departments of labor in the state, especially in its relation to the commercial, industrial, social and sanitary

condition of the laboring classes, and to the permanent prosperity of the productive industry of the state, including all useful facts which he may be able to gather, bearing upon the material and social interests of the state, and tending to afford, at home and abroad, a correct knowledge of resources and progress.

(1870, c. 25, § 1, as amended 1878, c. 26, § 1; G. S. 1878, c. 6, § 78.)

By section 1 of this act it was provided that the assistant secretary of state should be ex officio commissioner of statistics.

§ 405. Duty of officers of whom commissioner may require information—Compensation.

The said commissioner of statistics shall have power to address general or special inquiries, with printed instructions and blanks for answers, or otherwise at his discretion, to any state, district, county, city or town officer, and it shall be the duty of such officer to answer fully and promptly such general or special questions as may be addressed to them by said commissioner on all matters of information which can be gathered from documents or records in their official keeping; and for such services said officers shall be allowed from their respective county treasuries just and reasonable compensation, computing the same at fifteen cents for every folio furnished by them, including all preparatory labor requisite to obtain the condensed results desired; or they shall receive, if they so elect, forty cents per hour for each hour actually occupied in furnishing such information, the same to be properly verified.

(1870, c. 25, § 2; G. S. 1878, c. 6, § 79.)

§ 406. Township assessor and county auditor to report acreage of crops, etc.—Penalty for failure—Compensation.

Each township assessor shall, on the first Monday in July, annually, transmit to the county auditor a complete statement in abstract of the number of acres cultivated for the current year within his assessment district in each of the following crops, together with the area and product for the year immediately preceding, of wheat, rye, oats, barley, buckwheat, corn, beans, peas, potatoes, sorghum, cultivated and wild hay, flax, hops, fruit trees in bearing, berries, bees, honey, and other farm produce; and also the number of milch cows two years old and over, cattle under two years old, and other cattle two years old and over, horses under three years old and horses over three years old, mules, sheep, hogs, and poultry. Suitable blanks for such statements shall be furnished to said assessors by the county auditor, prepared and supplied by the commissioner of statistics. Any assessor who shall fail or omit to perform said duties in any respect shall be subject to a forfeiture of a sum not exceeding fifty dollars for each and every offense; and it shall be the duty of the county auditor to inform the county attorney, for prosecution for the recovery of said penalty, in every instance of such delinquency. Each county auditor shall carefully compile and forward to the commissioner of statistics a full abstract of said returns on the second Monday of July, under a penalty of fifty dollars, to be forfeited to the state, for every failure to perform such duty, which said abstract shall be tabulated in convenient form for general information, and a printed copy furnished to each and every newspaper in the state by said commissioner, as soon as practicable thereafter, and not later than the third Monday of July annually. The township assessors shall receive, as compensation for making the statement required by this section to be returned to the county auditor, at the rate of ten cents for each form so returned, which said sum shall be paid by the state. Upon the return of said abstract statement to the county auditor, if the same is correctly made out, he shall issue an order to the assessor for the amount due him on the treasury of the state, which said order shall be received in payment of state taxes.

(1870, c. 25, § 3, as amended 1876, c. 87, § 1; G. S. 1878, c. 6, § 80; 1885, c. 113.)

§ 407. Penalty for refusal of information.

Any person who by this act is required to give information to the commissioner of statistics, and who shall refuse or neglect to answer the inquiries addressed to him by that officer upon matters of fact or record in his official possession, shall forfeit to the state of Minnesota any sum not exceeding fifty dollars for each offence, to be collected as other fines are collected by law.

(1870, c. 25, § 9; G. S. 1878, c. 6, § 86.)

§ 408. Report of commissioner.

The said commissioner of statistics shall, during the month of January in each year, make a written report to the governor, giving in a concise and available form the results of his labors, which shall be communicated by the governor to the legislature, and be printed, distributed and bound with the executive documents, as provided by law.

(1870, c. 25, § 10; G. S. 1878, c. 6, § 87.)

But see ante, § 284.

§ 409. Standing appropriation.

To cover all the disbursements necessary under the provisions of this act, the sum of one thousand dollars shall be annually appropriated, which sum shall include the compensation of said commissioner of statistics for the performance of the duties herein specified, and all clerk hire, stationery and incidental expenses: provided, that the sum of two hundred dollars is hereby annually appropriated as a contingent fund to aid in collecting said statistics and distributing the same.

(1870, c. 25, § 11, as amended 1878, c. 26, § 2; G. S. 1878, c. 6, § 88.)

409
97 - 155

[TITLE 11.]

PUBLIC EXAMINER.

§ 410. Appointment—Bond—Term of office.

That one competent person, who shall be a skilful accountant, and well versed as an expert in the theory and practice of book-keeping, and who is not an incumbent of any public office under the state, or any county, municipality or public institution therein, and who is not a stockholder, officer, trustee, assignee, or employee of any banking, moneyed or savings institution or corporation created under the laws thereof, shall be appointed by the governor, by and with the advice and consent of the senate, who shall be styled public examiner, and who shall take and file with the secretary of state an oath of office, and execute to the state a bond, with at least three sureties to be approved by the governor, in the penal sum of fifty thousand dollars for the faithful discharge of his duties. He shall hold the office for the term of three years, and execute the duties thereof as herein prescribed until his successor shall be appointed and qualified; and in case of a vacancy by death, removal, resignation or otherwise, the governor shall fill the same by appointment.

(1878, c. 83, § 1; G. S. 1878, c. 6, § 89.)

§ 411. Powers and duties of examiner in regard to state institutions.

The said public examiner is authorized and empowered by this act, and it shall be his duty, in his discretion, to assume and exercise a constant supervision over the books and financial accounts of the several public, educational, charitable, penal and reformatory institutions belonging to the state. He shall prescribe and enforce correct methods for keeping the financial accounts of said institutions, and instruct the proper officers thereof in the due performance of their duties concerning the same. It shall be his duty to visit each of said state institutions at irregular periods, without previous

notice to the officers thereof, at least twice each year, and make an exhaustive examination of the books and accounts thereof, including a thorough inspection of the purposes and detailed items of expenditures and of the vouchers therefor.

(1878, c. 83, § 2; G. S. 1878, c. 6, § 90.)

412 '05 . 223

§ 412. Powers and duties in respect to state and county officers.

It shall be the duty of the public examiner to order and enforce a correct and, as far as practicable, uniform system of book-keeping by state and county treasurers and auditors, so as to afford a suitable check upon their mutual action, and insure the thorough supervision and safety of state and county funds. He shall have full authority to expose false or erroneous systems of accounting, and, when necessary, instruct state and county officers in the proper mode of keeping the same. It shall be his duty to ascertain the character and financial standing of all present and proposed bondsmen of state and county officers, and he shall have full powers to approve or reject any or all such sureties in accordance with the knowledge so obtained. He shall require of county treasurers from time to time, as often as he shall deem necessary, a verified statement of their accounts, and he shall personally visit said officers without notice to them, at irregular intervals, at least once in each year, and at such times make a thorough examination of the books, accounts and vouchers of such officers, ascertaining in detail the various items of receipts and expenditures; and it shall be [his] the duty to inspect and verify the character and amount of any and all assets and securities held by said officers on public account, and to ascertain the character and amount of any commissions, percentages, or charges for services exacted by such officers without warrant of law. The examiner shall report to the attorney general the refusal or neglect of county officers to obey his instructions; and it shall be the duty of said attorney general to promptly take action to enforce compliance therewith. The said examiner shall report to the governor the result of his examinations, as well as any failure of duty by financial officers, as often as he thinks required by the public interests; and the governor may cause the results of such examinations to be published, or, at his discretion, to take such action for the public security as the exigency may demand; and, if he shall deem the public interests to require, he may suspend any such officer from further performance of duty until an examination be had, or such security obtained as may be demanded for the prompt protection of the public funds.

(1878, c. 83, § 3; G. S. 1878, c. 6, § 91.)

§ 413. Powers and duties in respect to banking institutions.

The examiner under this act shall in like manner and with like authority visit, without prior notice, each of the banking, savings, and other moneyed corporations created under the laws of this state or the territory of Minnesota, and thoroughly examine into their affairs, and ascertain their financial condition, at least once in each year. It shall be his duty to carefully inspect and verify the validity and amount of the securities and assets held by such institutions, examine into the validity of the mortgages held by savings banks, and see that the same are duly recorded, and ascertain the nature and amount of any discount or other banking transactions which he may deem foreign to the legitimate and lawful purposes of savings institutions. He shall inquire into and report any neglect or infringement of the laws governing such banking, moneyed and savings institutions, and for such purposes shall have power to examine the officers, agents and employees thereof, and persons doing business therewith. He shall forthwith report the condition of such corporations, so ascertained, to the governor, together with his recommendations or suggestions respecting the same, and the governor may cause the same to be published, or, in his discretion, take such action as the emergency may seem to demand.

(1878, c. 83, § 4; G. S. 1878, c. 6, § 92.)

§ 414. Supervision of state banks.

All duties now required to be performed by, and all responsibilities now imposed upon, the auditor of this state, under the laws regulating the business of banking, shall hereafter be performed by the public examiner, under the title *ex-officio* of superintendent of banks, and all reports and documents now on file in the state auditor's office, pertaining to banks, now in existence, are hereby transferred to the custody of the public examiner.

(1887, c. 183; G. S. 1878, v. 2, c. 6, § 14a.)

For deputy bank examiner, see post, §§ 2531, 2532.

§ 415. Same powers and duties in regard to financial officers of city of St. Paul.

The public examiner of this state is hereby given the same powers and jurisdiction, and there is hereby imposed upon him in all respects the same duties relative to and over the office and records of the city comptroller, city treasurer and other revenue and financial officers of the city of St. Paul as are now imposed upon and granted to the public examiner of this state under any law thereof relative to the several counties and public institutions of this state.

(1891, c. 53, § 1.)

§ 416. City liable for expenses of examination.

For each day of service of said examiner in the performance of his work and duties imposed and provided for in this act, said city shall, within thirty days next following the performance of such services, pay into the treasury of this state the sum of six dollars; Provided, however, That said city shall not be obliged to pay into said treasury in any one year more than the sum of six hundred dollars.

(Id. § 2.)

§ 417. Additional compensation of examination.

The public examiner, in addition to the compensation he now receives, shall receive and there shall be paid to him from the treasury of this state, annually, a sum equal to the amount paid into said treasury during said year by said city of St. Paul.

(Id. § 3.)

§ 418. Facilities for examination to be furnished—Penalty for refusal.

To enable said examiner to perform the services herein required of him, the trustees and financial officers and managers of the several state institutions, the county and state treasurers and auditors, and other county and state officers, and the officers and employees of all banking, moneyed and savings institutions herein referred to, shall afford all reasonable and needed facilities, and it is hereby made the duty of all such trustees, officers, managers and employees to make returns and exhibits to the said examiner, under oath, in such form and at such time or times as he shall prescribe; and each and every person so required, who shall refuse or neglect to make such return or exhibit, or [to] give such information as may be required by said examiner, shall be deemed guilty of felony; and if any person, in making such exhibit, or giving such information, or affording any statement required under this act, on his oath, shall knowingly swear falsely concerning the same, he shall be deemed guilty of perjury and punished accordingly.

(1878, c. 83, § 5; G. S. 1878, c. 6, § 93.)

§ 419. Power of examiner to examine books and witnesses—Penalty for obstructing him.

Every person who shall wilfully obstruct or mislead the public examiner in the execution of his duties as herein prescribed, shall be subject to a conviction and punishment therefor in the same way as is provided for the conviction and punishment of persons obstructing or hindering other officers, ministerial, judicial or executive, under the authority and law of this state. And the said examiner shall have full power and authority, for the various pur-

poses herein named, to examine any of the books, papers, accounts, bills, vouchers, or other documents or property of any or all of the aforesaid state institutions, moneyed, banking and savings corporations, and county and state officers, and custodians of county and state funds, and also to examine under oath any or all of the trustees, managers, officers, employees or agents, of such institutions and moneyed and savings corporations, and other persons in control of or doing business with said moneyed and savings institutions, and the county and state officers, and custodians of county and state funds aforesaid. The said examiner is empowered to issue subpoenas and administer oaths, in the same manner and with the same power to enforce obedience thereof in the performance of his said duties as belong and pertain to courts of law in this state; and any person refusing access by said examiner to any such books or papers, or any trustee, manager, officer, agent, clerk, employee, or other person aforesaid, who shall obstruct said access, or refuse to furnish any required information, or who shall in any manner hinder the thorough examination, required by this act, of the officers, or of the affairs, books, accounts, papers and finances of the state, moneyed, banking and savings institutions, or pertaining to the county and state officers aforesaid, shall be deemed guilty of a felony, and shall be liable on conviction to [a] fine of one thousand dollars or imprisonment in the state prison for a period of one year.

(1878, c. 83, § 6; G. S. 1878, c. 6, § 94.)

§ 420. Annual report to the governor.

Said examiner shall make an annual written report to the governor, of his various proceedings, embodying therein an abstract of the condition and statistics of the several institutions, and county and state finances, as ascertained by him, which report shall be printed to the number of one thousand copies, and be included with other official reports in the volume of executive documents.

(1878, c. 83, § 7; G. S. 1878, c. 6, § 95.)

But see ante, §§ 279, 284.

§ 421. Salary — Contingent fund — Indirect compensation prohibited.

For the services required under this act the public examiner shall receive an annual salary of thirty-five hundred dollars, and a contingent fund of fifteen hundred dollars, of which one thousand dollars shall be paid for clerk hire, and the remainder, or so much thereof as may be necessary, for the incidental expenses of his office, which sums shall be paid by the state treasurer in the same manner as other salaries and expenses of state officers are paid; and if the said examiner shall directly or indirectly receive any compensation or pay for any services or extra service, or for neglect of service, other than is provided in this act, he shall be deemed guilty of felony, and, on conviction thereof, shall be subject to a fine not exceeding ten thousand dollars, or imprisonment in the state prison not exceeding ten years, or both, in the discretion of the court.

(1878, c. 83, § 8; G. S. 1878, c. 6, § 96; as amended 1881, c. 53, § 1.)

§ 422. May appoint deputy—Oath—Bond—Duties.

The public examiner may appoint a deputy who shall take and subscribe the oath of office required by law, and who shall execute to the state a bond, with two or more sureties, in the penal sum of ten thousand dollars, for the faithful discharge of his duties. In case of the necessary absence or inability of the public examiner, the deputy shall perform the several duties required of that officer. Said oath and bond shall be filed in the office of the secretary of state.

(1887, c. 218, § 1; G. S. 1878, v. 2, c. 6, § 96a.)

§ 423. Appropriation.

There is hereby annually appropriated the sum of eighteen hundred dollars out of any funds in the state treasury not otherwise appropriated, for the sal-

(118)

421-423
95 350

423
97 - 155

MINNESOTA STATUTES 1894

Tit. 12] STATE BOARD OF HEALTH AND VITAL STATISTICS. §§ 423-427

ary of the said deputy, and also the further sum of seven hundred dollars for clerk hire, traveling, and other expenses of the public examiner's office.
(1887, c. 218, § 2; G. S. 1878, v. 2, c. 6, § 96b.)

§ 424. Attorney general to act with examiner.

It shall be the duty of the attorney general to aid, when called upon by the public examiner, in any investigation or matter needing legal advice and inquiry, and to supervise the prosecution of all offenders under the provisions of this act.
(1878, c. 83, § 9; G. S. 1878, c. 6, § 97.)

[TITLE 12.]

STATE BOARD OF HEALTH AND VITAL STATISTICS.

See §§ 7045-7079.

§ 425. State board of health and vital statistics—How appointed.

425-443
95 . 199
95 . 200

There shall be a state board of health and vital statistics to be appointed by the governor as hereinafter stated. The term of office of all the present members of the said board of health and vital statistics shall terminate on the first day of January, A. D. 1894, and on that day, or as soon thereafter as practicable, the governor shall proceed to appoint a new board, consisting of nine members, three of whom shall be appointed to serve for a term of one year, three of whom shall be appointed to serve for a term of two years, and three of whom shall be appointed to serve for a term of three years; and thereafter the governor shall appoint on the first day of January of each year, or as soon thereafter as practicable, three members of said board who shall serve for a term of three years. And in case of any vacancy occurring in the board by death, resignation or otherwise, the governor shall immediately supply such vacancy by appointment, to serve for the unexpired term.

(1872, c. 15, § 1; G. S. 1878, c. 6, § 98; as amended 1893, c. 97, § 1.)

§ 426. Duties of the board.

426 '05 . 101

The state board of health shall place themselves in communication with the local board[s] of health, the hospitals, asylums, and public institutions throughout the state, and shall take cognizance of the interests of health and life among the citizens generally. They shall make sanitary investigations and inquiries respecting the causes of diseases, especially [of] epidemics; the source of mortality, and the effects of localities, employments, conditions and circumstances on the public health; and they shall gather such information in respect to these matters as they may deem proper for diffusion among the people. They shall devise some scheme whereby medical and vital statistics of sanitary value may be obtained, and act as an advisory board to the state in all hygienic and medical matters, especially such as relate to the location, construction, sewerage and administrations of prisons, hospitals, asylums and other public institutions. They shall at each annual session of the legislature make a report of their doings, investigations and discoveries, with such suggestions as to legislative action as they may deem proper. They shall also have charge of all matters pertaining to quarantine, and authority to enact and enforce such measures as may be necessary to the public health.
(1872, c. 15, § 2; G. S. 1878, c. 6, § 99.)

§ 427. Meetings—Officers—Compensation of executive officer.

The board shall hold regular meetings at the capitol building in St. Paul, on the second Tuesday in January, April, July and October in each year, at ten o'clock in the forenoon, and such special meetings as the secretary shall deem necessary. They shall elect from their own number the following named officers, to wit: a president and permanent secretary. The secretary shall be the executive officer of the board, and shall be entitled to such compensation, in addition to that now provided by law, as the board in their discretion

may deem necessary; provided, that in case of the absence from the state of the secretary of the board, or in case of his inability for other cause to discharge the executive duties of said office, then and in such case the president of said board shall act as the executive officer of said board during the absence of said secretary, and the board may allow the president such compensation for his services as they may deem reasonable; and the said board may appoint such quarantine officers, inspectors, assistants and other agents as they may deem necessary.

(1872, c. 15, § 8; G. S. 1878, c. 6, § 100; as amended 1893, c. 97, § 2.)

§ 428. Duties of secretary.

The secretary shall perform and superintend the work prescribed in this act, and shall perform such other duties as the board may require. He shall furnish to the legislature when in session such information cognate to this act as from time to time they may deem necessary.

(1872, c. 15, § 4; G. S. 1878, c. 6, § 101.)

§ 429. Salary of secretary and expenses of board.

The secretary of the board shall receive from the treasury, in quarterly payments, an annual salary of twenty-five hundred dollars, and his necessary and actual traveling expenses incurred in the performance of official duties, after they have been audited by the board and approved by the governor; and all other necessary expenses arising in his office shall be paid out of the treasury in the same manner as those of the different departments of state government: *provided*, that the expenses of said board shall not exceed the sum of fifteen hundred dollars per annum.

(1872, c. 15, § 5, as amended 1873, c. 7, § 1; G. S. 1878, c. 6, § 102; Ex. S. 1881, c. 21, § 1; 1885, c. 93.)

See ante, § 427, as to additional compensation.

§ 430. Pollution of sources of water supply forbidden.

No sewage, drainage, or refuse, or polluting matter of such kind as, either by itself or in connection with other matter, will corrupt or impair the quality of the water of any spring, well, pond, lake, stream, or river for domestic use, or render it injurious to health, and no human or animal excrement shall be placed in or discharged into, or placed or deposited upon the ice of any pond, lake, stream, or river, used as a source of water supply by any town, village, or city; nor shall any such sewage, drainage, refuse, or polluting matter or excrement be placed upon the banks of any such pond, lake, stream, or river, within five miles above the point where such supply is taken, or into any feeders or the banks thereof, of any such pond, lake, stream, or river: *provided*, nothing in this section contained shall apply to Lake Superior.

(1885, c. 225, § 1; G. S. 1878, v. 2, c. 6, § 99a.)

§ 431. Supervision of sources of water supply—Procedure in cases of pollution.

The state board of health shall have the general supervision of all springs, wells, ponds, lakes, streams, or rivers used by any town, village, or city as a source of water supply, with reference to their purity, together with the waters feeding the same, and shall examine the same from time to time, and inquire what, if any, pollution exists, and their causes. In case of a violation of any of the provisions of section one of this act, said board may appoint a time and place for hearing parties to be affected, and shall give due notice thereof, as hereinafter provided, to such parties; and after such hearing, if in its judgment the public health requires it, may order any person or corporation, or municipal corporation, to desist from the acts causing such pollution, and may direct any such person or corporation to remedy the pollution, or to cleanse or purify the polluting substances in such a manner and to such a degree as shall be directed by said board, before being cast or allowed to flow into the waters thereby polluted, or placed or deposited upon the ice or

Tit. 12] STATE BOARD OF HEALTH AND VITAL STATISTICS. §§ 431-435

banks of any of the bodies of water in the first section of this act mentioned. Upon the application of the proper officers of any town, village, or city, or of not less than ten legal voters of any such town, village, or city, to said state board, alleging the pollution of the water supply of any such town, village, or city, by the violation of any of the provisions of this act, said state board shall investigate the alleged pollution, and shall appoint a time and place when and where it will hear and examine the matter, and shall give notice of such hearing and examination to the complainant, and also to the person or corporation or municipal corporation alleged to have caused such pollution, and such notice shall be served not less than ten days prior to the time so appointed, and shall be served in the same manner that now is or hereafter may be by law provided for the service of a summons in a civil action in the district court. Said board, if in its judgment any of the provisions of this act have been violated, shall issue the order or orders already mentioned in this section.

(1885, c. 225, § 2; G. S. 1878, v. 2, c. 6, § 99b.)

§ 432. Injunction may issue, when.

The district court, or the judge thereof, may, upon the complaint of said state board, or of the proper authorities of any town, city, or village whose sources of water supply shall be so polluted, issue an injunction to enforce the orders of said state board.

(1885, c. 225, § 3; G. S. 1878, v. 2, c. 6, § 99c.)

§ 433. Appeal from order of board to district court.

Such orders of the state board shall be served upon the persons, corporations, or municipal corporations found to have violated any of the provisions of this act, and any party aggrieved thereby shall have the right to appeal to the district court of the county in which is situate the town, village, or city whose source of water supply is found to have been polluted, and such aggrieved party shall have the right to a trial by jury in the same manner as in a civil action in said court. During the pendency of the appeal the pollution against which the order has issued shall not be continued contrary to the order of the state board, and upon the violation of the order the appeal shall forthwith be dismissed.

(1885, c. 225, § 4; G. S. 1878, v. 2, c. 6, § 99d.)

§ 434. Appeal, how taken.

Any person, corporation, or municipal corporation desiring to appeal from any such order of the state board, shall, within thirty days after the service upon him or it of a copy of such order, file in the office of the clerk of the district court of the proper county, a notice of such appeal, together with a bond in the sum of not less than two thousand dollars, with two sureties, to be approved by the judge of said court, conditioned for the prosecution of such appeal to judgment, and for the payment of all the costs and disbursements that may be adjudged against him or it therein, and shall, within three days after such filing, serve a copy of such notice and bond upon the secretary of said board; and said secretary shall, within ten days thereafter, deliver such copies so served upon him to the mayor or other chief executive officer of any such city, village, or town, whose source of water supply has been found to have been so polluted.

(1885, c. 225, § 5; G. S. 1878, v. 2, c. 6, § 99e.)

§ 435. Water boards and companies to make returns, when
—Penalty for failure.

Water boards, water commissioners, water companies, and the proper officers of any city, village, or town, making use as a source of water supply of any well, spring, pond, lake, stream, river, reservoir, or well, within, or partly

(121)

within, this state, and distributing the waters thereof for public, domestic, and general uses, shall, from time to time, and whenever required by said state board, make returns to said board, upon blanks to be furnished by it, of such matters as may be required by said board and called for by such blanks, and any such water board, water commissioners, water company, or officers of any city, village, or town, who shall, for the space of thirty days after being furnished with such blanks, fail or neglect to make any such report so required, shall, for each and every such neglect or failure, forfeit and pay the sum of one hundred dollars, for the use of the local board of health, or the proper officer acting as such, of the city, town, or village where such delinquent has its principal office. Said state board shall, in the name of the state, prosecute in the district court of the proper county an action for the recovery of the penalty or forfeit herein imposed.

(1885, c. 225, § 6; G. S. 1878, v. 2, c. 6, § 99f.)

§ 436. Vital statistics to be collected and recorded by local officers.

The clerk of each town and the health officer of each village, borough, or city in this state, shall obtain and register the following facts concerning the births and deaths occurring therein, separately numbering and recording the same in the order in which he obtains them, designated in separate columns, viz.: In the registry of births, the date of birth, the name of the child, (if it have any,) the sex and color of the child, the names and places of birth of the parents, and the date of the record. In the registry of deaths, the date of death, the sex and color, the condition, whether single, widowed, or married, the names and places of birth of the parents, the disease or cause of death, and the date of the record. The county auditor of each county shall furnish each clerk or health officer within his county, at the expense of the county, a book in which to register the facts concerning the births and deaths, as above provided.

(1887, c. 114, § 1; G. S. 1878, v. 2, c. 6, § 102a; as amended 1891, c. 109, § 1.)

By § 9 of this act, G. S. 1878, c. 6, §§ 81, 82, 83, 84, 85, and all other acts and parts of acts inconsistent with this act, are repealed.

§ 437. By whom notice of births and deaths to be given—Penalty.

Parents shall give notice to such clerk or health officer of the births and deaths of their children; every householder shall give like notice of every birth and death happening in the house; the oldest persons next of kin shall give such notice of the death of his kindred; the keeper or other proper officer of every work-house, poor-house, reform school, jail, prison, hospital, asylum, or other public or charitable institution, shall give like notice of every birth or death happening among the persons under his charge. Whoever neglects or refuses to give such notice for the period of ten days after the occurrence of a birth or death, shall forfeit a sum not exceeding twenty dollars, to be collected as other fines are collected by law.

(1887, c. 114, § 2; G. S. 1878, v. 2, c. 6, § 102b.)

§ 438. Physicians to give notice of births and deaths—Penalty.

Any physician having attended a person during his last illness, shall, within ten days after the decease of such person, furnish, for registration, to such clerk or health officer, a certificate of the duration of the last illness, the name of the deceased, his age, the disease of which the person died, and the date of his decease. And any physician or midwife having attended a case of confinement shall within ten days thereafter furnish, for registration, to such

(122)

[Tit. 12] STATE BOARD OF HEALTH AND VITAL STATISTICS. §§ 438-441

clerk or health officer, a certificate of the date of birth, sex, and color of the child, with the names, dates, and places of births of the parents. If any physician or midwife neglects to make such certificate, he shall forfeit the sum of twenty-five dollars, to be collected as other fines are collected by law. (1887, c. 114, § 3; G. S. 1878, v. 2, c. 6, § 102c.)

§ 439. Returns to be made to state board—Penalty.

439
99 - 337

Such clerk or health officer shall, on or before the fifth day of each month, transmit to the secretary of the state board of health and vital statistics, upon blanks to be furnished by said board, a certified copy of the registry of births and deaths which have occurred within such town, village, borough, or city, during the calendar month immediately preceding. For obtaining, registering, and returning the facts herein required, such clerk or health officer shall be entitled to receive from the county treasury of his county twenty-five cents for each birth or death so obtained, registered, and reported. And for any neglect to perform such duties as herein required he shall forfeit a sum not exceeding fifty dollars for each offense, to be collected as other fines are collected. Provided, That in cities containing over one hundred thousand inhabitants said health officer shall perform all of the duties herein required of him without any charge or compensation therefor, and the salary of said health officer shall be taken and deemed to be full compensation, in addition to his other duties, for all the services required of him by this act. (1877, c. 114, § 4; G. S. 1878, v. 2, c. 6, § 102d; as amended 1891, c. 109, § 2.)

§ 440. Blanks to be furnished—Returns to clerk of district court.

It shall be the duty of the state board of health and vital statistics to prepare and furnish to such clerks and health officers suitable blanks and instructions for the making of the returns herein provided for. And the secretary of said state board of health and vital statistics shall annually, on or before the fifteenth day of January of each year, transmit to the clerk of the district court of each county all of the said returns received by said secretary from such clerks or health officers in such county during the year ending on the last day of the preceding December, together with his certificate showing the aggregate number of births and deaths so reported in such year by each such clerk and health officer.

(1887, c. 114, § 5; G. S. 1878, v. 2, c. 6, § 102e.)

§ 441. Returns to be filed—Certificates to be issued—Penalty.

441
99 - 337

The said clerk of the district court shall thereupon file the said returns, so to him transmitted, in his office, and shall also issue to each such town clerk and health officer a certificate showing the amount due to them respectively for the obtaining, registering, and reporting the births and deaths aforesaid, as the name [same] may appear from the said certificate of said secretary of the state board of health and vital statistics. For all his said services such clerk of the district court shall be entitled to receive from the county treasurer of his respective county, for recording such births and deaths, and making such abstract thereof as he may by law be required to make, the sum of ten cents for each such birth or death. And for his failure to perform any of the duties herein provided for, such clerk of the district court shall forfeit the sum of fifty dollars, to be collected as other fines are collected. Provided, however, That where any county contains a city having over one hundred thousand inhabitants, said district clerk shall not issue any such certificate to the health officer of said city, nor shall said clerk of the district court receive any compensation for or on account of any of the duties hereby required to be performed by him in connection with the births or deaths occurring within the limits of said city.

(1887, c. 114, § 6; G. S. 1878, v. 2, c. 6, § 102f; as amended 1891, c. 109, § 3.)

MINNESOTA STATUTES 1894

§§ 442-447

STATE OFFICERS.

[Ch. 6

§ 442. Payment of fees.

The county auditor of each county, upon the presentation to him of the aforesaid certificate of the clerk of the district court of his county, shall issue and deliver to each clerk and health officer, respectively, his warrant upon the county treasurer for the amount in said certificate stated to be due to such clerk or health officer; and the county treasurer, upon the presentation of such warrant, shall pay the same, to the person entitled thereto, out of the general funds in the county treasury.

(1887, c. 114, § 7; G. S. 1878, v. 2, c. 6, § 102g.)

§ 443. Standing appropriation.

To cover all clerk hire, stationery, and incidental expenses of the state board of health and vital statistics, under this act, the sum of one thousand dollars shall be and hereby is annually appropriated.

(1887, c. 114, § 8; G. S. 1878, v. 2, c. 6, § 102h.)

[TITLE 13.]

INSPECTOR OF ILLUMINATING OILS.

§ 444. Salary of inspector of illuminating oils.

The inspector of illuminating oils shall receive an annual salary of two thousand four hundred dollars per annum, payable monthly, as provided for in the cases of other state officers, which salary shall be in full compensation for all services and expenses for the performance of duties now or hereafter required by law.

(1889, c. 246, § 1.)

§ 445. Shall collect fees and pay same to treasurer, when.

The said inspector shall collect the fees now or hereafter provided by law, for inspecting oils. He shall make monthly statements, in detail under oath to the state auditor, of all fees collected by himself, or received from his deputies under the provisions of this act, and pay the amount so shown to be collected or received to the state treasurer, monthly, on or before the tenth day of each and every month.

(Id. § 2.)

§ 446. Number of deputy inspectors—Paid from fees.

Not more than one deputy inspector of illuminating oils shall be appointed in any county. Such deputies shall collect all fees now or hereafter provided by law for inspecting oils, earned by them, and pay over the same with a monthly report under oath, to the inspector of illuminating oils, retaining for their services fifty per centum of the same, until the commission shall amount to fifty dollars per month, and twenty-five per cent. thereafter; Provided that no deputy shall retain more than the percentages herein provided, and until the commission shall amount to one hundred dollars per month, and ten per cent. thereafter. Provided, that no deputy shall receive as compensation for his services a sum to exceed the sum of two thousand dollars per annum, and that all fees collected in excess of two thousand dollars be paid into the state treasury; Provided, however, that when the fees so collected amount to less than thirty dollars per month in any county, the deputy inspector may retain the entire amount thereof, on making report of the same.

(Id. § 3.)

§ 4 appears to be repealed by § 456, post.

§ 447. Appointment, term, and removal of inspector.

There shall be appointed by the governor, by and with the consent of the senate, a suitable person, resident of the state, who is not interested in

¹Laws 1876, c. 90, as amended 1877, c. 71; 1878, c. 37 (G. S. 1878, c. 6, §§ 115-123) appear to be repealed by Laws 1889, c. 246, and Laws 1893, c. 20. See §§ 444-458.

443
97 - 155

444-458
71-M - 180

447
73-NW 704

447
01 - 123
71-M - 178

MINNESOTA STATUTES 1894

Tit. 13]

INSPECTOR OF ILLUMINATING OILS.

§§ 447-451

manufacturing, dealing or vending any illuminating oils manufactured from petroleum, as state inspector of illuminating oils, whose term of office shall be for the term of two years, or until his successor is appointed and qualified. The governor shall have the power to remove such person from office whenever it shall appear to him from good and sufficient evidence that such officer is guilty of malfeasance or non-feasance in the performance of his duty, and may fill any vacancy arising from such removal, or from resignation, death or removal from the state, by a new appointment; provided, however, that nothing in this act shall in any way affect the term of office or powers of the present state inspector of illuminating oils.

(1893, c. 20, § 1.8)

§ 448. Oath and bond of inspector.

The person appointed as state inspector of illuminating oils shall, before he enters upon the duties of his office, take the oath or affirmation prescribed by the laws of this state, and shall execute a bond to the state of Minnesota in the sum of five thousand dollars, with such sureties as shall be approved by the secretary of state, conditioned for the faithful performance of his duties under this act, which bond, so approved, shall be filed with the secretary of state.

(Id. § 2.)

§ 449. Appointment and duties of deputies—Oath and bond of deputies.

The state inspector of illuminating oils shall and is hereby empowered to appoint such deputy inspectors in the different counties of the state as shall be necessary for the prompt and faithful performance of the duties required under this act, and such deputies are hereby empowered to perform the duties of the state inspector of illuminating oils, and shall be liable to the same penalties as the state inspector; provided, that the state inspector may, at any time, remove any of the deputies for reasonable cause and appoint others in their place. Such deputy inspector shall, when so appointed, before he enters upon the duties of his office, take a like oath or affirmation and execute a bond as aforesaid, in a sum not less than one thousand dollars nor more than five thousand dollars, with good and sufficient sureties, which bond, with such sureties as shall be approved by the judge of the district court, shall be filed with his approval in the office of the clerk of the district court for the county to which said deputy is appointed.

(Id. § 3.)

§ 450. Must not traffic in oils—Penalty.

No inspector or deputy inspector shall, while in office, traffic, either directly or indirectly, in any article which he is appointed to inspect. For violation of this section he shall be liable to a penalty not exceeding one thousand dollars.

(Id. § 4.)

§ 451. Record of inspection.

It shall be the duty of the deputy inspector to keep a true and correct record of all oils inspected by him, which record shall state the date and place of inspection, the number of packages inspected, and the number of gallons therein contained so near as can be ascertained, and at the end of each month make a true transcript of such record and forward it to the state inspector. It shall be the duty of the state inspector of illuminating oils to keep a true and correct record of all oils inspected by himself or deputies in the same manner prescribed for deputy inspectors, and at the end of each year he shall make a detailed report to the secretary of state of the number of packages and number of gallons inspected, date of inspection by months, the number

⁸An act to govern the inspection and use and sale of illuminating oils, or petroleum and petroleum products, for use in the state of Minnesota, and defining the duties of inspectors and prescribing penalties and inspection fees and the manner of appointment of inspectors. Approved April 14, 1893.

By § 13 all acts and parts of acts inconsistent with this act are repealed.

§§ 451-453

STATE OFFICERS.

[Ch. 6

of packages and gallons approved and the number rejected, the date and place of rejection if rejected, the name of the dealer in whose hands found and from whom the dealer received the same, and these records shall be open at all times and to all persons.

(Id. § 5.)

§ 452. Test of 120° Fahrenheit—Exception—Penalty for vending or using inferior oil.

No person, firm or corporation shall knowingly sell or offer for sale or knowingly use in this state any kerosene or coal oils or any product thereof which by reason of adulteration or for any other reason will at a temperature of one hundred and twenty degrees Fahrenheit ignite and burn. Provided, that the quantity used for tests shall not be less than one-half pint. And provided further, that the gas or vapor from said oils may be used for illuminating purposes when the oils from which said gas or vapor is generated are contained in reservoirs outside of the building illuminated by such gas, and that an oil which will ignite and burn at a lower temperature than one hundred and twenty degrees Fahrenheit may be sold and used for fuel purposes. Any person violating the provisions of this section shall be deemed guilty of a misdemeanor and shall, upon conviction thereof, be punished by imprisonment in the county jail not more than one year, or by a fine not exceeding five hundred dollars, or both fine and imprisonment in the discretion of the court.

(Id. § 6.)

§ 453. Inspection at factory—Sale before inspection—Gasoline, etc.—How branded—Use of false brands.

All illuminating oils manufactured, refined or compounded within this state from petroleum or coal oil or other products shall be inspected before being removed from the refinery or manufactory; and if any person or persons, whether manufacturer, vendor or dealer, shall sell to any person for use or sale within this state any such illuminating oils, whether manufactured within this state or not, before having the same inspected, as provided for in this act, or shall sell or offer for sale or represent for the purpose of sale any such illuminating oil as having a higher flash or fire test than that which such oil shall have been found to have stood when inspected by any of the inspectors provided for in this act, he or they shall be deemed guilty of a misdemeanor and shall, upon conviction thereof, be subject to a fine not exceeding five hundred dollars nor less than one hundred dollars. Any manufacturer, vendor or dealer who shall sell or cause to be sold any package containing gasoline, naphtha or benzine, or fill for the purpose of sale or use any package with gasoline, naphtha or benzine marked or branded as kerosene or any other illuminating oil or fluid without first erasing such brand or mark, or shall sell or cause to be sold any package containing gasoline, naphtha or benzine without such package being plainly tagged, labeled or branded with the name of its contents, or if any manufacturer, vendor or dealer shall sell to any person or persons any naphtha, benzine or gasoline for use within this state in barrels, casks or packages containing forty or more gallons without first having branded as directed by the state inspector of illuminating oils the words "unsafe for illuminating purposes," shall be deemed guilty of a misdemeanor, and, upon conviction, shall be subject to a penalty not exceeding five hundred dollars nor less than one hundred dollars. If any manufacturer, vendor or dealer of such oils shall falsely brand or cause to be branded any package, cask or barrel, or shall use or cause to be used any barrel, cask or package having the inspector's brand thereon without first having the oil therein inspected as required in this act, he shall be deemed guilty of a misdemeanor and, upon conviction, shall be subject to a penalty not exceeding five hundred dollars nor less than one hundred dollars or be imprisoned in the county jail for a term not exceeding six months, or both, in the discretion of the court.

(Id. § 7.)

§ 454. Oils exposed for sale—How branded—Certificate of inspection or rejection—Gasoline—How branded—Apparatus—Duties and powers of inspectors—Appeal.

It shall be the duty of said state inspector of illuminating oils, or one of his deputies, to examine and test the quality of all such oils offered for sale by any manufacturer, vendor or dealer, and if on testing or examining the oils shall meet the requirements hereinafter specified, he shall affix his brand or device showing the date of inspection and the legal test of said oil, with the word "Approved" and the name of the inspector upon the barrel, cask or package containing the same, and shall issue to the person for whom inspected a certificate of inspection and approval relating the package, number of gallons, test and date inspected, whereupon it shall be lawful for any manufacturer, vendor or dealer to sell the same as an illuminating oil or for heating purposes; but if the oil so tested shall not meet the said requirements, then he shall mark in plain letters upon said barrel, cask or package the words "Unsafe for illuminating purposes," and shall issue a certificate of inspection and rejection, relating the package, number of gallons, test and date rejected; and if any person shall sell or offer for sale any such rejected oil he shall be deemed guilty of a misdemeanor and shall, upon conviction, be punished as provided for in section six of this act; provided, however, that all aforesaid oils sold for use within this state of Minnesota must be inspected and all packages branded by the state inspector of illuminating oils, or his regularly appointed deputies. It shall also be the duty of the state inspector of illuminating oils or one of his deputies, when called upon, to brand all barrels, casks or packages containing forty or more gallons of benzine, naphtha or gasoline with the words "Unsafe for illuminating purposes," together with the name of the inspector; provided, however, that he shall not be entitled to demand or receive any fee or other compensation for such work. It shall be necessary for the state inspector of illuminating oils and his deputies to provide themselves, at their own proper expense, with the necessary instruments and apparatus for testing the aforesaid illuminating oils and marking the packages in which the same are contained; and, when called upon, to promptly inspect all oils herein mentioned and to reject as dangerous or unsafe for illuminating purposes all oils which by reason of adulteration or for any other reason will, at a temperature of one hundred and twenty degrees Fahrenheit, ignite or burn; provided, the quantity of oil in such test shall not be less than one-half pint. The oil tester and mode of test shall be that recommended by the state board of health, and shall be used and followed by the state inspector of illuminating oils and his deputies. Said inspector and his deputies are hereby empowered and shall upon application and tender of the fees herein provided, enter, during business hours, into any store, shop, manufactory or warehouse in which said illuminating oils are kept for sale, and inspect and test such oils, marking the packages in which the same are contained as provided in this act. The decision of any deputy inspector on any package of oil shall be subject to an appeal to the state inspector of illuminating oils, whose decision shall be final.

(Id. § 8.)

The act complained of must appear clearly within the prohibition of the statute. *State v. Finch*, 37 Minn. 433, 34 N. W. Rep. 904.

§ 455. Place of inspection—Search for unsafe oil—Oil in transit—Penalty for not erasing brand.

All oils in quantities of less than fifty barrels shall be inspected at a railroad or river station unless the party requesting shall pay the inspector in advance and in addition to the fees provided for in this act, ten cents per mile for each mile necessarily traveled in going to and returning from the place where such inspection is made, the distance to be computed from the place of residence of such inspector. Provided no mileage shall be required for any distance traveled outside of the county where such oil is inspected. Said inspector and his deputies are hereby authorized and empowered to enter, dur-

ing business hours, without being requested so to do, any store, shop, warehouse or yard or other place in which he believes oil uninspected or unsafe for illuminating purposes for sale or use within this state, may be found, and inspect and test such oils and to brand any barrel, cask or package in which said oil may be contained as provided for in this act; and in such cases the inspector shall be entitled to receive and demand from the owner of such oil inspected the same fees and mileage as provided for in this act. Provided, that nothing herein contained shall authorize the state inspector of illuminating oils or his deputies to demand fees for the inspection of oils which have been once before inspected by himself or deputies, or upon oils in transit for use in other states, or sold for delivery to other states. Any person or persons who shall refill or sell any empty barrel, cask or package having the inspector's brand "Approved" thereon without first erasing the brand, shall be deemed guilty of a misdemeanor and shall be subject to a penalty of a fine not exceeding five hundred dollars.

(1893, c. 20, § 9.)

§ 456. Oil in tanks.

The state inspector of illuminating oils or his deputies may inspect and test illuminating oils in a tank, or railroad tank-car, so-called, standing upon a railroad track, and such oil shall not be transferred into warehouse or storage tanks or otherwise unloaded until so inspected. Provided, however, if any such oils are not inspected within twenty-four hours after arriving at their destination it may be unloaded and the inspector shall make his inspection after it is so unloaded, and when such oil has been so inspected no other inspection shall be necessary, but the inspector or his deputy shall, when such oil is put into barrels, brand the said barrels without charge. When the amount contained in any such tank shall exceed fifty-five gallons, each fifty-five gallons shall constitute a barrel within the meaning of the law, and the fees for inspecting the same and for branding the barrels shall for each fifty-five gallons be the same as prescribed for in this act for each barrel, cask or package.

(Id. § 10.)

As to inspection in tank cars under Laws 1889, c. 246, § 4. *Willis v. Standard Oil Co.*, 50 Minn. 290, 53 N. W. Rep. 652.

As to the constitutionality of such legislation. *Id.*

01 457 - 123

§ 457. Fees for inspection.

The state inspector of illuminating oils or his deputies shall be entitled to demand and receive from the owner or party calling upon him or for whom he shall inspect any such oils, the sum of forty cents for testing and marking a single barrel, cask or package not containing more than fifty-five gallons; thirty cents each when not exceeding five in number of above capacity each, twenty cents when not exceeding ten in number of above capacity each, submitted at one time for inspection; fifteen cents each where the number of packages exceed ten in number of a capacity not in excess of fifty-five gallons each, and fifteen cents for each fifty-five gallons when contained in barrels, casks, packages, tank-cars, storage-tanks or otherwise with a capacity in excess of fifty-five gallons each.

(1893, c. 20, § 11.)

§ 458. Inspectors to prosecute violations.

It shall be the duty of the state inspector of illuminating oils and of every deputy inspector who shall know of the violation of any of the provisions of this act to enter complaint before any court of competent jurisdiction against any person so offending, and all justices of the peace within their respective counties shall have power to order any person violating any of the provisions of this act to enter into a recognizance, and with sufficient sureties, in such sum as to them may seem proper, for his appearance at the next term of the district court, to answer to such complaint or charges as may be made against him.

(Id. § 12.)

[TITLE 14.]

459

01 - 122

STATE BOARD OF CORRECTIONS AND CHARITIES.

**§ 459. Appointment, term and compensation of board—
Vacancies.**

The governor, with the advice and consent of the senate, shall appoint six persons, not more than three of whom shall be from the same political party, who shall constitute a state board of corrections and charities, to serve without compensation, their traveling expenses only being defrayed by the state; two of whom, as indicated by the governor upon their appointment, shall serve for one year, two for two years, and two for three years; and upon the expiration of the term of each, his place, and that of his successor, shall, in like manner, be filled for the term of three years. The governor shall be *ex officio* a member of said board and the president thereof. Appointments to fill vacancies caused by death, resignation, or removal before the expiration of such terms, may be made for the residue of terms in the same manner as original appointments.

(1883, c. 127, § 1; G. S. 1878, v. 2, c. 6, § 124.)

§ 460. Meetings—Rules—Duties and powers.

The state board of corrections and charities shall be provided with a suitable room in the state house. Regular meetings of the board shall be held quarterly, or oftener if required. They may make such rules and orders for the regulation of their own proceedings as they may deem necessary. They shall investigate the whole system of public charities and correctional institutions of the state, examine into the condition and management thereof, especially of prisons, jails, infirmaries, public hospitals, and asylums; and the officers in charge of all such institutions shall furnish to the board, on their request, such information and statistics as they may require; and to secure accuracy, uniformity, and completeness in such statistics, the board may prescribe such forms of report and registration as they may deem essential; and all plans for new jails, lockups, and infirmaries shall, before the adoption of the same by the county or municipal authorities, be submitted to said board for suggestion and criticism. The governor, in his discretion, may, at any time, order an investigation by the board, or by a committee of its members, of the management of any penal, reformatory, or charitable institution of the state; and said board or committee, in making any such investigation, shall have power to send for persons and papers, and to administer oaths and affirmations; and the report of such investigation, with the testimony, shall be made to the governor, and shall be submitted by him, with his suggestions, to the legislature.

(1883, c. 127, § 2, as amended 1887, c. 93, § 1; G. S. 1878, v. 2, c. 6, § 125.)

§ 461. Secretary and clerk—Salaries—Appropriation.

The said board may appoint a secretary and a clerk, whose salaries they may establish and determine, and there is hereby appropriated from any funds in the state treasury not otherwise appropriated, for the expenses of the said board, the sum of five thousand dollars, or so much thereof as may be necessary, for each year, ending July thirty-first, one thousand eight hundred and eighty-eight, and July thirty-first, one thousand eight hundred and eighty-nine. All accounts and expenditures shall be certified as may be provided by the board, and shall be paid by the state treasurer upon an order drawn by the auditor of state.

(1883, c. 127, § 3, as amended 1885, c. 35, § 1; 1887, c. 93, § 2; G. S. 1878, v. 2, c. 6, § 126.)

§ 462. To make biennial report.

The state board of corrections and charities shall, every two years, make a full report of all their doings during that period, stating in detail all expenses incurred, and showing the actual condition of all the state and county institutions, and making such suggestions as they may deem advisable; of which report two thousand copies shall be printed for the use of the legislature, and one thousand copies for the use of the board.

(1883, c. 127, § 4, as amended 1885, c. 35, § 2; G. S. 1878, v. 2, c. 6, § 127.)

But see ante, § 279

§ 463. Inspection of institutions in other states.

Whenever the governor shall deem it advisable and expedient to obtain information in respect to the condition and practicable workings of charitable, penal, pauper, and reformatory institutions in other states, he may authorize and designate any member or members of said board, or the secretary thereof, to visit such institutions in operation in other states; and by personal inspection to carefully observe and report to said board on all such matters relating to the conduct and management thereof as may be deemed to be interesting, useful, and of value to be understood in the government and discipline of similar institutions in this state.

(1883, c. 127, § 5, as amended 1887, c. 93, § 3; G. S. 1878, v. 2, c. 6, § 128.)

§ 464. Members not to be interested in contracts--Who not eligible to membership.

No member of said board, or their secretary, shall be either directly or indirectly interested in any contract for building, repairing, or furnishing any institution, poor-house, or jail which by this act they are authorized to visit and inspect; nor shall any officer of such institution, jail, or poor-house be eligible to appointment on the board hereby created.

(1883, c. 127, § 6; G. S. 1878, v. 2, c. 6, § 129.)

[TITLE 15.]

STATE LAND AGENT.

§ 465. Appointment and duty of agent.

That the governor of this state be and is hereby authorized and empowered to employ a state land agent for the state of Minnesota, whose duty it shall be to investigate and prosecute to final decision, in the proper departments of the government, the claims of the state of Minnesota for lands due or inuring from the United States under the act of congress, approved March twelve, one thousand eight hundred and sixty, granting swamp and overflowed lands to the state of Minnesota, or under any other of the several acts of congress granting lands to said state.

(1881, c. 99, § 1; G. S. 1878, v. 2, c. 6, § 130.)

§ 466. Other duties.

It shall be his further duty to investigate the circumstances attending the several grants of land made by congress to the state of Minnesota, and adjust and maintain the rightful interests of the state derived therefrom, and, when so directed by the governor, he shall visit the several United States land-offices within the state and inquire into the causes which lead to the wrongs suffered by settlers, and he shall generally, under the direction of the governor, act as the agent of the state in the adjustment of any unsettled or conflicting matters pertaining to the landed interests of the state.

(1881, c. 99, § 2; G. S. 1878, v. 2, c. 6, § 131.)

MINNESOTA STATUTES 1894

Tit. 16]

BUREAU OF LABOR.

§§ 467-470

§ 467. Bond.

Before entering upon the duties of his agency, such agent shall execute to the state of Minnesota a bond, with good and sufficient security, to be approved by the governor and auditor of state, in the sum of five thousand dollars, conditioned for the faithful performance of every duty imposed by the provisions of this act.

(1881, c. 99, § 3; G. S. 1878, v. 2, c. 6, § 132.)

§ 468. Compensation.

Said agent shall receive a compensation at a rate not to exceed fifteen hundred dollars per annum, to be paid as the salaries of other state officers are paid, as full compensation for all services rendered, and also for all expenses incurred in the performance of the duties imposed by this act, and for the payment of such salary there is hereby annually appropriated for a term of two years, out of any moneys in the general revenue fund not otherwise appropriated, the sum of fifteen hundred dollars.

(1881, c. 99, § 4; G. S. 1878, v. 2, c. 6, § 133.)

468
97 - 155

[TITLE 16.]

BUREAU OF LABOR.*

* For factory inspector act, see § 2248 et seq.

§ 469. Commissioner, assistant commissioner, and factory inspector.

A commissioner of labor, appointed by the governor, and an assistant commissioner and a factory inspector, appointed by the commissioner, shall constitute a bureau of labor. The present commissioner of labor statistics shall act as commissioner of labor until the expiration of his term of office in January, 1895. At that time and thereafter biennially, on the first Monday in January, the governor, with the advice and consent of the senate, shall appoint a suitable person to act as commissioner of labor, with headquarters at the capitol, who shall hold his office until his successor has been appointed and qualified.

(1893, c. 6, § 1.)

469
99 - 312
469)
477) '05 . 316

§ 470. Duty of officers.

It shall be the duty of the officers and employes of the said bureau to cause to be enforced all laws regulating the employment of children, minors and women; all laws established for the protection of the health, lives and limbs of operators in workshops and factories, on railroads and in other places, and all laws enacted for the protection of the working classes, including chapter two hundred and five of the General Laws of 1885, chapters ten and sixteen of the General Laws of 1889, chapter seventeen of the General Laws of 1891, laws declaring it a misdemeanor on the part of employers to require as a condition of employment the surrender of any right of citizenship, laws regulating and prescribing the qualifications of persons in trades and handicrafts, and similar laws now in force or hereafter to be enacted. It shall also be the duty of the officers and employes of the bureau to collect, assort, arrange and present, in biennial reports,* to the legislature, on or before the first Monday in January, statistical details relating to all departments of labor in the state; to the subjects of co-operation, strikes or other labor difficulties; to trade unions and other labor organizations and their effect upon labor and capital; and to such other matters relating to the commercial, industrial, social, educational, moral and sanitary conditions of the laboring classes, and the permanent prosperity of the respective industries of the state as the bureau may be able to gather. In its biennial reports the bureau shall also give an account of all proceedings of its officers and employes which have been taken in ac-

* But see ante, § 284.

*An act creating a bureau of labor, defining its duties, and appropriating money for its maintenance. Approved March 30, 1893.

MINNESOTA STATUTES 1894

§§ 470-474

STATE OFFICERS.

[Ch. 6

cordance with the provisions of this act or of any of the other acts herein referred to, including a statement of all violations of law which have been observed, and the proceedings under the same, and shall join with such account such remarks, suggestions and recommendations as the commissioner may deem necessary.

(Id. § 2.)

§ 471. Factory owners, etc., to report to bureau.

It shall be the duty of every owner, operator or manager of every factory, workshop, mine or other establishment where labor is employed, to make to the bureau, upon blanks furnished by said bureau, such reports and returns as the said bureau may require for the purpose of compiling such labor statistics as are authorized by this act, and the owner or business manager shall make such reports and returns within the time prescribed therefor by the commissioner of labor, and shall certify to the correctness of the same. In the reports of said bureau no use shall be made of names of individuals, firms or corporations supplying the information called for by this section, such information being deemed confidential and not for the purpose of disclosing personal affairs, and any officer, agent or employe of said bureau violating this provision shall forfeit a sum not exceeding five hundred dollars or be imprisoned for not more than one year.

(Id. § 3.)

§ 472. Powers of officers—Witnesses.

The commissioner, or any officer of the bureau of labor, shall have the power to issue subpoenas, administer oaths and take testimony in all matters relating to the duties herein required by said bureau, such testimony to be taken in some suitable place in the vicinity to which testimony is applicable. Witnesses subpoenaed and testifying before any officer of the said bureau shall be paid the same fees as witnesses before a district court, such payments to be made from the contingent fund of the bureau. Any person duly subpoenaed under the provisions of this section, who shall willfully neglect or refuse to attend or testify at the time and place named in the subpoena, shall be guilty of misdemeanor, and, upon conviction thereof, before any court of competent jurisdiction, may be punished by a fine not exceeding fifty dollars, or by imprisonment in the county jail not exceeding thirty days; provided, however, that no witness shall be compelled to go outside the county in which he resides to testify.

(Id. § 4.)

§ 473. Additional powers—Definition of words.

The commissioner of labor or any officer or employe of the bureau of labor shall have power to enter any factory or mill, workshop, or public or private works when the same is open, or in operation, for the purpose of gathering facts and statistics such as are contemplated by this act, and to examine into the methods of protection from danger to employes and the sanitary condition in and around such buildings and places and make a record thereof, and any owner or occupant of said factory or mill, workshop, or public or private works, or his agent or agents, who shall refuse to allow an officer or employe of the said bureau to so enter, shall be deemed guilty of a misdemeanor, and, upon conviction thereof, before any court of competent jurisdiction, shall be punished by a fine not exceeding one hundred dollars, or be imprisoned in the county jail not to exceed ninety days. The expressions "factory or mill," "workshop," and "public or private works" used in this act shall have the same meanings defined for them, respectively, in an act entitled "An act providing for the protection of employes," approved March 30, 1893.

(Id. § 5.)

§ 474. Reports, etc., to be public documents—What may be destroyed.

No report or return made to the said bureau in accordance with the provisions of this act, and no schedule, record or document gathered or returned by its officers or employes, shall be destroyed within two years of the receipt or collection thereof, such reports, schedules and documents being de-

MINNESOTA STATUTES 1894

Tit. 17] BOARD OF INSPECTORS OF STEAM VESSELS, ETC. §§ 474-480

clared public documents. At the expiration of the period of two years above referred to in this section, all records, schedules and papers accumulating in the said bureau that may be considered of no value by the commissioner may be destroyed; provided, the authority of the governor and the senate be first obtained for such destruction.

(Id. § 6.)

§ 475. Deputies and assistant inspectors.

In addition to the assistant commissioner and the factory inspector, provided by section one of this act, the commissioner of labor shall appoint two deputies and two assistant factory inspectors, one of whom shall act as inspector of railways. He may also employ such other assistants and incur such other expense, not exceeding three thousand dollars a year, as may be necessary in the discharge of the official duties of said bureau; such other assistants shall be paid for the services rendered such compensation as the commissioner of labor may deem proper, but no such assistant shall be paid more than four dollars per day in addition to necessary traveling expenses.

(Id. § 7.)

§ 476. Printing—Biennial report.

The biennial reports of the bureau of labor, provided for by section two of this act, shall be printed in the same manner and under the same regulations as the reports of the executive officers of the state; provided, that not less than one thousand nor more than three thousand copies of the report shall be distributed, as the judgment of the commissioner may deem best. The blanks and other stationery required by the bureau of labor, in accordance with the provisions of this act, shall be furnished by the secretary of the state and paid for from the printing fund of the state.

(Id. § 8.)

§ 477. Salaries of officers.

The compensation of said bureau shall be two thousand five hundred dollars annual salary for the commissioner, fifteen hundred dollars annual salary for the assistant commissioner, twelve hundred dollars annual salary for the factory inspector, and one thousand dollars annual salary each for the two deputies and the two assistant factory inspectors, and a sum not exceeding three thousand dollars per annum shall be allowed for the necessary traveling and incidental expenses of the bureau; provided, that only those persons who possess a practical knowledge of and experience in the work and duties required of them under the provisions of this and other acts shall be appointed factory inspectors.

(Id. § 9.)

§ 478. Annual appropriation.

There is hereby annually appropriated out of any money in the treasury, not otherwise appropriated, the sum of twelve thousand two hundred dollars, or so much thereof as may be necessary to carry out the provisions of this act.

(Id. § 10.)

§ 479. Repeal of inconsistent acts.

Chapter one hundred and fifteen of the General Laws of 1887 and all amendments thereto* and all other acts and parts of acts inconsistent with the provisions of this act are hereby repealed.

(Id. § 11.)

*See Laws 1889, c. 244.

[TITLE 17.]

BOARD OF INSPECTORS OF STEAM VESSELS AND STEAM BOILERS.

§ 480. Appointment, duties, and term of board.

Within sixty days after the passage of this act, and biennially thereafter, there shall be appointed by the governor a board of five inspectors, one of whom shall reside in each congressional district, whose duty it shall be to in-

(133)

spect all steam boilers in use within the state, not subject to inspection under the laws of the United States, and not hereinafter excepted, and to examine and grant certificates of license to steam engineers entrusted with the care and management of steam boilers. Said inspectors shall examine and license all masters and pilots on inland waters of the state, and such examination shall be conducted, as near as may be, pursuant to the rules and regulations provided by the laws of the United States for the examination of masters and pilots. Said inspectors shall hold their respective offices for two years from the first day of February, A. D. one thousand eight hundred and eighty-nine, and until their successors are appointed and qualified, unless sooner removed by the governor. Said inspectors shall annually on or before the thirty-first day of January, render a report to the secretary of state, and to the legislature, showing a detailed statement of the number of inspections made, licenses issued, and the amount of fees received therefor, also showing the amount of disbursements of their offices.

(1889, c. 253, § 1.¹⁰)

See § 206, supra.

481
77-M - 359
79-NW1038

§ 481. Who eligible to office—Oath.

No person shall be eligible to hold the office of inspector of boilers who has not had at least ten years of actual experience in operating steam engines and steam boilers, or who is directly or indirectly interested in the manufacture or sale of boilers or steam machinery, or any patented article required to be used, or that is in general use in the construction of steam engines or boilers, or who is not of good moral character, and suitably qualified by experience in the construction of steam boilers so as to enable him to perform the duties of the office; and no person shall enter upon or perform any of the duties of inspector who has not taken and subscribed an oath, and filed the same with the secretary of state, that he will faithfully and impartially perform the duties of his office.

(Id. § 2.)

§ 482. Meeting—Rules—Penalty for violation.

Said inspectors, in April next after the passage of this act, and in February each year thereafter, shall meet as a board, at the capitol in St. Paul, and establish such rules and regulations for the inspection of steam vessels and steam boilers, and their other duties, as herein provided for, as shall be required by the terms of this chapter. They shall also prescribe rules and regulations for the inspection of the hulls, machinery, boilers, steam connections, fire apparatus, life-saving appliances and equipments of all the steamers propelled in whole or in part by steam, and navigating the inland waters of the state; such rules to conform, as near as may be, to the requirements of the laws of the United States in regard to the inspection of hulls, machinery, boilers, steam connections, fire apparatus, life-saving appliances and equipments of steam vessels, and such rules and regulations, when approved by the governor, shall have the force of law. They shall also designate the number of passengers that each steam vessel may safely carry; and it shall be unlawful for any master or owner of any steam vessel herein provided for, to carry a greater number of passengers than is allowed by the inspector's certificate; provided, further, Any master, owner or person not complying with this section and the rules and regulations as prescribed by the inspectors, shall be deemed guilty of misdemeanor, and fined not less than fifty dollars nor more than one hundred dollars, or imprisonment in the county jail not to exceed thirty days, or both, at the discretion of the court.

(Id. § 3.)

§ 483. Who responsible for inspection of steam boilers—Penalty.

Every owner, lessee or other person having charge of steam boilers, or any boat propelled in whole or in part by steam, not subject to inspection under the laws of the United States, shall cause the same to be inspected at least once each year by the inspectors herein provided for, and every such owner,

¹⁰ By § 15, Laws 1885, c. 143, all acts and parts of acts inconsistent therewith are repealed.

Tit. 17] BOARD OF INSPECTORS OF STEAM VESSELS, ETC. §§ 483-485

lessee or person having charge of such boilers or steam vessels who shall raise steam and operate such boilers and machinery without such inspection shall be deemed guilty of a misdemeanor and fined not less than fifty dollars nor more than one hundred dollars, or may be imprisoned in the county jail not to exceed thirty days, or both at the discretion of the court.

(Id. § 4.)

§ 484. Steam vessels—Inspection of—Certificate—Posting same—Examination of masters and pilots—Revoking license—Fees—Penalty.

The inspector or inspectors shall once each year at least, upon application in writing by the owner, lessee or manager, carefully inspect the hull, boiler, machinery and equipments of all steam vessels and all steam boilers liable to inspection under this act, and shall satisfy themselves that every such vessel is of a structure suitable for the service in which she is to be employed, and has suitable accommodations for passengers and the crew, and is in condition to warrant the belief that she may be used in navigating as a steamer with safety to life, and that such equipments as life preservers, floats, pumps, hose, anchors and other things necessary to insure safety have been provided. When the inspection of a steam vessel is completed and the inspector or inspectors approve the vessel and her equipments throughout, he or they shall make and subscribe a sworn and verified certificate to the secretary of state in such form as the board of inspectors shall prescribe, and a copy of said certificate shall be furnished by the inspector to the managing owner or master of said steam vessel, who shall post the same in a conspicuous place on said boat. The original certificate shall be kept on file in the office of secretary of state. The said inspector shall also examine all masters and pilots of steam vessels on inland waters of the state as to their qualifications and fitness, and if found competent and reliable enough to perform the duties of master or pilot, the inspector shall issue them a certificate authorizing them to act as such on such inland waters of the state as designated by their certificate. The inspector shall also make such rules and regulations for the navigation of steam vessels as will permit such navigation without danger to life or property. The inspectors shall revoke the license of any master, pilot or engineer if found under the influence of intoxicating liquor when on duty, or who otherwise disregards the rules and regulations as prescribed by the inspectors. The said inspectors shall be authorized to collect a fee of ten dollars for inspection of all vessels of fifty tons burden and over, and five dollars for all of a less tonnage, and a fee of one dollar for the examination of and issuing a master's or pilot's license and one dollar for the biennial renewal of the same. Every lessee, pilot or owner not complying with this section shall be deemed guilty of a misdemeanor and fined not less than one hundred dollars nor more than two hundred dollars, or may be imprisoned in the county jail not to exceed sixty days, or both at the discretion of the court.

(Id. § 5.)

§ 485. Steam boilers—Inspection of—Manner of examination—Tests.

The said inspectors shall in addition to their duties as inspectors of steam vessels, inspect all steam boilers and steam generators before the same shall be used, and all steam boilers at least once every year thereafter. They shall subject all boilers to hydrostatic pressure or hammer test and shall satisfy themselves by a thorough internal and external examination that the boilers are well made and of good and suitable material, that the openings for the passage of water and steam, respectively, and all pipes and tubes exposed to heat are of proper dimensions, and free from obstructions; that the flues are circular in form; that the arrangement for delivering the feed water is such that the boilers cannot be injured thereby, and that such boilers and their steam connections may be safely used without danger to life or property. Provided, further, They shall also satisfy themselves that the safety valves are of suitable dimensions, sufficient in number and properly

arranged, and that the safety valve weights are properly adjusted so as to allow no greater pressure in the boilers than the amount prescribed by the inspector's certificate; that there is a sufficient number of gauge cocks properly inserted to indicate the amount of water, and suitable gauges that will correctly record the pressure of steam; and that the fusible metals are properly inserted so as to fuse by the heat of the furnace whenever the water in the boilers falls below its prescribed limits, and that adequate and certain provisions for an ample supply of water to feed the boilers at all times, so that in high pressure boilers the water shall not be less than three inches above the top of the fire surface, and that means for blowing out are provided, so as to thoroughly remove the mud and sediment from all parts of the boilers when they are under pressure of steam. In subjecting to the hydrostatic test boilers usually designated as high pressure, the inspector shall assume one hundred and twenty-five pounds to the square inch as the maximum pressure allowable, as a working pressure for new boilers forty-two inches in diameter, double riveted, made in the best manner, of plates one-fourth of an inch thick, and of good material; but the inspector shall rate the working power of all high pressure boilers according to their strength compared with this standard, and in all cases the test applied shall exceed the working power allowed, in the ratio of one hundred and sixty-five to one hundred and ten. In subjecting to hydrostatic tests boilers usually designated as low pressure, the inspectors shall allow as a working power for each new boiler, a pressure of only three-fourths the number of pounds to which it has been subjected by the hydrostatic test. Should the inspector be of the opinion that any boiler by reason of its construction or material will not safely allow so high a working pressure as herein provided, they may for reasons to be specially stated in their certificate, fix the pressure of such boilers at less than three-fourths of the test pressure. No boiler or steam pipe nor any of the connections therewith shall be approved which are made in whole or in part of bad material or cast iron, or are unsafe from any cause. Nothing herein shall be construed to prevent the use of any boiler or steam generator which may not be constructed of riveted iron or steel plates, when the board of inspectors have satisfactory evidence and are satisfied that such boilers or steam generator is equal in strength and as safe from explosion as boilers of the best quality constructed of riveted steel or iron plates

(Id. § 6.)

§ 486. Penalty for imperfect construction.

Every person who constructs a boiler or steam pipe of iron or steel plates known to be faulty or imperfect, or drifts any rivet hole to make it come fair, or who delivers any such boiler for use knowing it to be imperfect in its flues, flanging, riveting, bracing, or in any other of its parts, shall be fined two hundred dollars, one half of which shall be paid to the informer.

(Id. § 7.)

§ 487. Special examination—Penalty for operator, when.

In addition to the annual inspection it shall be the duty of the inspectors to examine at proper times, when in their opinion such examination shall become necessary, all such boilers as shall become unsafe from any cause and to notify the owners or persons using such boilers of any defect and what repairs are necessary in order to render them safe, and it shall be the duty of any person operating such boiler to cease to use the same until such repairs are made, and in case of a failure to comply with the requirements of said inspector, the person operating any such boiler shall, on conviction thereof, be fined not to exceed one hundred dollars and liable to damage to persons or property resulting therefrom.

(Id. § 8.)

§ 488. Fusible plug.

Every steam boiler shall be provided with a fusible plug, made of good Banca tin inserted in the flues, crown sheet or other parts of the boiler most exposed to the heat of the furnace when the water falls below the prescribed limits.

(Id. § 9.)

Tit. 17] BOARD OF INSPECTORS OF STEAM VESSELS, ETC. § 489

**§ 489. Steam boilers—Duty of owners and engineers—
Penalty—Examination of engineers—License—
Classes.**

It shall be the duty of owners or managers of steam boilers mentioned in this act to allow said inspectors free access to the same, and it is hereby made the duty of engineers operating the same to assist the inspectors in their examinations and to point out any defect they may know in the boiler or machinery in their charge. Any person not complying with the foregoing provisions of this section shall be punished by a fine of ten dollars and costs. No person shall be entrusted with the operating of any steam boiler or steam machinery who has not been examined by an inspector and found competent and fit to perform the duties of an engineer and received from such inspector a written or printed license so to act, which shall be renewed biennially. Any person who shall operate any steam boiler or steam machinery of any kind without first obtaining a license from an inspector shall be deemed guilty of a misdemeanor and fined not less than twenty-five dollars nor more than fifty dollars. *Provided, further: Engineers shall be divided into four classes, namely:*

- Chief engineers.
- First-class engineers.
- Second-class engineers.
- Special engineers.

Chief engineer—Qualifications.

First. No license shall be granted to any person under twenty-one years of age except to special engineers. No license shall be granted to any person to perform the duties of chief engineer who has not taken and subscribed an oath that he has had at least five years actual experience in operating steam boilers and steam machinery, or whose knowledge and experience and habits of life are not such as to justify the belief that he is competent to take charge of all classes of steam boilers and steam machinery.

First-class engineer—Qualifications.

Second. No license shall be granted to any person to act as first class engineer who has not taken and subscribed an oath that he has had at least three years actual experience in operating steam boilers and steam machinery, and whose experience and habits of life are not such as to warrant the belief that he is competent to take charge of all classes of steam boilers and steam machinery not exceeding three hundred horse power.

Second-class engineer—Qualifications.

Third. No license shall be granted to any person to act as second class engineer who has not taken and subscribed an oath that he has had at least one year of actual experience in operating steam boilers and steam machinery, or whose experience and habits of life are not such as to warrant the belief that he is competent to take charge of all classes of steam boilers and steam machinery not to exceed one hundred horse power.

Special engineer—Qualifications.

Fourth. No license shall be granted to any person to act as special engineer unless found upon examination to be sufficiently acquainted with the duties of an engineer to warrant the belief that he can be safely entrusted with steam boilers and steam machinery not to exceed thirty horse power.

License to be revoked, when.

Whenever complaint is made by any person against any engineer holding a license, that he has through negligence, want of skill, inattention to duty, or violation of any part of this act, permitted his boiler to burn or otherwise become in bad condition, it shall be the duty of the inspector who granted the license, upon satisfactory proof of such negligence or otherwise, to revoke the license of such engineer. Said engineer may, however, in case of a grievance against said inspector and person making such complaint, appeal to the

entire board and governor of the state, who shall decide the case, which decision shall be final and conclusive.

(Id. § 10.)

§ 490. Penalty for granting false certificate, etc.

In making the inspection of boilers, machinery or steam vessels herein provided for, the inspectors may act jointly or separately, but the inspector or inspectors making such inspection shall in all cases subscribe an oath to the certificate of inspection. And any inspector who shall willfully certify falsely regarding any steam boilers or their attachments or the hull and equipments of any steam vessel, or who shall grant a certificate of license to any person to act as engineer, master or pilot contrary to the provisions of this act, shall on conviction thereof be fined not less than fifty dollars nor to exceed five hundred dollars, or may be imprisoned not to exceed one year in the state prison or both at the discretion of the court, and in all cases removed from office. All the fines of this act not otherwise disposed of shall accrue to the state.

(Id. § 11.)

§ 491. Certificate of inspection of boiler—Posting same—Fees.

When the inspector or inspectors shall find after proper tests and examination of a steam boiler or steam generator, as herein provided, that the same is safe and suitable for use, such inspector or inspectors shall make and subscribe a sworn and verified certificate to the secretary of state, in such form as the board of inspectors shall prescribe, and which among other things shall contain a specification of the test applied and the working power allowed, and a copy of the said certificate shall be furnished by the inspector to the owner of the boiler or steam generator. Such copy so furnished the owner of such boiler or generator shall be by him placed or posted in a conspicuous position on such boiler or generator, and shall so remain. The inspectors shall be authorized to charge a fee of three dollars for the inspection of each single boiler and its steam connections and two dollars for each additional boiler when connected and inspected at the same time. Said fees shall be payable at the time of the delivery of the inspector's certificate of approval. The fees for the examination of applicants for engineer's license shall be one dollar, and for the biennial renewal of certificates of license the fee shall be one dollar, which fee shall accompany the application.

(Id. § 12.)

§ 492. Disposal of fees.

All fees collected by the inspectors as provided for in this act shall be retained by them as full compensation for their services and divided among them as they may determine at their regular annual meeting.

(Id. § 13.)

§ 493. Exemptions from act.

This act shall not apply to railroad locomotives nor shall engineers employed by railroad companies be required to procure licenses from the state board of inspectors. Nor shall it apply to boilers inspected by insurance companies and certified by their authorized inspectors to be safe. Provided, further, That the penalties provided for in this act shall not apply in any case where prior to the time the inspector or inspectors, have after the application has been made provided for in this act, notified the persons affected that they are ready to make the inspection as herein provided for.

(Id. § 14.)

§ 494. Deputies.

The board of boiler inspectors may appoint one or more deputies in the several counties of this state, which deputies shall have the same qualifications as are herein prescribed for boiler inspectors, and shall qualify by taking the oath prescribed by section two of this act, and such deputies shall have the authority within the county for which they are appointed as the chief boiler inspectors under the provisions of this act.

(Id. § 16.)

MINNESOTA STATUTES 1894

Tit. 18] BOARD OF STATE CAPITOL COMMISSIONERS. §§ 495-498

[TITLE 18.]

BOARD OF STATE CAPITOL COMMISSIONERS.

§ 495. Appointment and removal of members—Vacancy.

That the governor be and he is hereby authorized, and it is made his duty forthwith to appoint by and with the advice and consent of the senate, seven suitable persons, one from each congressional district in the state, to act and be known as state capitol commissioners, who shall constitute a board to be known as the "board of state capitol commissioners," whose duty shall be to secure the erection of a new state capitol, according to the provisions of this act; provided, however, that the governor shall be, ex-officio, the presiding officer of said board and shall have the right and opportunity to express his opinions and give his advice upon all measures or questions that may come before said board for consideration and determination, but shall not be deemed a member of said board, except for the purpose of presiding over their deliberations at their regular and special meetings, which shall be conducted according to the usual parliamentary rules. The persons thus appointed shall be subject to removal by the governor for cause, and should any vacancy occur in said board from death, resignation or otherwise, the governor shall fill the same by appointment, such appointment, however, to be subject to rejection or ratification by the senate at the first session of the legislature following such appointment.

495-507
95 . 347

495-508
69-M - 188

495
01 - 168

495)
507) '05 . 16
102

(1893, c. 2, § 1.¹²)

§ 496. Compensation.

Each member of said board shall be entitled to receive his actual traveling expenses, and each member of said board, except the governor, shall receive the sum of five dollars per day for the time actually spent in the discharge of his duties under this act.

(Id. § 2.)

§ 497. Bond and oath—Penalty for violation.

Each of said commissioners, before entering upon the duties of his office, shall enter into bond in the sum of twenty-five thousand dollars with two or more good sureties to be approved by the governor, conditioned for the faithful performance of his duty under this act, payable to the state of Minnesota, and filed in the office of the secretary of state, and shall also take and subscribe the following oath, to be indorsed on said bond, and be administered by any one authorized to administer oaths, to wit: "I, A. B., do solemnly swear that I will not, directly or indirectly, be interested or concerned, in any manner whatever, in the pieces or parcels of land, or any of them, to be used as a site for a new state capitol building according to the provisions of this act, or in the purchase from the state of any lands or buildings to be sold under this act; and I will not, directly or indirectly, be interested or concerned in any manner with any contractor or contractors or person or persons, for the erection and location of the state capitol or any portion thereof, or in the proceeds or profits growing out of the same, or any work or labor done thereon, or material furnished in the erection of the same; so help me God." And should the said commissioner offend against the true intent and meaning of this oath, he shall, upon indictment and conviction, suffer all the pains and penalties of perjury; and in case of a violation of the conditions of the bond provided for, he shall be liable to an action thereon in the district court of Ramsey county, and a judgment in favor of the state for such damages as may be awarded against the obligors thereto, by reason of failure of the principal.

(Id. § 3.)

§ 498. First meeting.

Within ten days after qualification as commissioners, the said board shall meet at the seat of government for the completion of their organization, and

¹² An act to provide a new capitol for the state of Minnesota. Approved April 7, 1893.

may elect one of their number vice president, whose duty it shall be to preside over the meetings of said board in the absence of the governor.

(Id. § 4.)

**§ 499. Superintendent and secretary to be appointed—
Compensation—How qualified.**

The said board of commissioners shall appoint some proper person, not of their number, to superintend, under their direction, the erection of the state capitol as provided for in this act, whose duty shall begin after the contract for the building is let, and they shall also appoint a secretary, not of their number, whose duty shall be by them prescribed. Such superintendent and secretary thus appointed shall each receive for his services a reasonable compensation, to be established by the board, and before entering upon the discharge of his duties shall take the oath prescribed by the constitution for state officers, and give bond for the faithful performance of the duties of his office in the penal sum of ten thousand dollars.

(Id. § 5.)

**§ 500. Commissioners not to be interested in contracts—
Penalty—Unlawful to employ superintendent,
when.**

It shall be unlawful for either of the said commissioners to be interested, either directly or indirectly, in any manner whatsoever in the location of said new capitol site, or in any contract, or part thereof, for the erection of said capitol building, or for any work connected therewith, or for the furnishing of any supplies or material therefor, so as to receive any benefit therefrom, or the promise of any benefit therefrom, either by way of commission, rebate, bonus, division of profits, or otherwise; and any of said commissioners who shall violate this provision of this act shall be guilty of a misdemeanor, and, upon conviction thereof, shall be subject to a fine not to exceed ten thousand dollars, and shall forfeit his right to, and be removed from his place on said board; and be found incapable of holding any office of trust or profit under the state; provided, further, that it shall be unlawful for said board of capitol commissioners to employ, or continue in employment, any person in the supervision or superintendence of the building of said capitol, or of any work connected therewith, who is in any manner connected or interested, directly or indirectly, in any contract for the erection of said capitol building, or for the furnishing of any supplies or material therefor; and the said board of commissioners are hereby charged with the rigid enforcement of this provision of this act.

(Id. § 6.)

§ 501. Appropriation for site and building.

There shall be transferred in each of the years 1893 and 1894 from the general fund to the credit of the board of state capitol commissioners the sum of five thousand dollars, and in each succeeding year after the year of 1894 until the completion of said capitol building, not exceeding ten years, a sum equal to the proceeds of a levy of two-tenths of a mill upon the assessed valuation of the state, for the purchase of a site, or part thereof, and the erection and completion of a new capitol building, in accordance with the terms and provisions of this act; provided, that the total amount so transferred shall not exceed the sum of two millions of dollars.

(Id. § 7.)

**§ 502. Plan to be secured by competition—Rules govern-
ing competition.**

The board of capitol commissioners, as soon as practicable after the passage of this act, shall proceed to select a plan for a suitable capitol building for the state of Minnesota, said plan to be secured by competitive contest, and the following rules shall govern the board:

First—The building shall be planned so that it can be properly built, with ample light and air, upon a lot surrounded by streets or open ground. The building shall be supplied with proper heating, lighting and ventilating apparatus, and with necessary sanitary arrangements.

MINNESOTA STATUTES 1894

Tit. 18]

BOARD OF STATE CAPITOL COMMISSIONERS.

§ 502

Second—The drawings required in the competition shall be as follows:

First—One plan of the cellar and of each of the other floors.

Second—Three elevations of building front, one side and rear.

Third—One longitudinal and one transverse section.

Fourth—One perspective view on the scale of one-fourth inch to the foot (with point of site three hundred feet nearest the point to the building) which shall be rendered with cast shadows in brush wash in monotone, black or brown.

Third—All drawings submitted, except the perspective, shall be drawn on a uniform scale of one-eighth inch to the foot; and all shall be executed in india ink on heavy white paper without shading or shadows. Door and window openings may be tinted in india ink to show glass. Walls and partitions may be filled in solid with india ink. No landscape or figures shall be drawn on either elevations, excepting one figure to indicate the scale.

Fourth—All drawings submitted shall be either mounted on stretchers or heavy book boards, with white or tinted paper borders, and no border lines or other framing will be allowed.

Fifth—The designs submitted shall be for a fireproof building and one that can be completed at a cost, including site and all other expenses, not exceeding two million dollars.

Sixth—The drawings shall be sent to the board of capitol commissioners at St. Paul, Minn., and shall come with the real name and address of the architect or firm submitting the same distinctly printed or written on each sheet.

Seventh—There shall also be a typewritten description designating the materials the author proposes using in the construction of building, and such other general information as cannot be shown on the several drawings herein called for, as may be necessary to accurately determine the cost of the building. No drawings or documents other than those herein called for will be received.

Eighth—Every design shall be excluded from competition as to which it appears that any attempt is made by its author to influence the decision of the members of the board or their advisers; or, if it in any particular violates the conditions herein stated; or if it be found that its probable cost will exceed the limits herein named.

(Id. § 8.)

Ninth—From the designs furnished which conform to these conditions, the board may select one to be the design for the new state capitol. This design shall be in the possession of the state, but shall remain the property of the architect or firm who made it, and shall not be used in whole or in part except said architect or firm is employed as architect and superintendent of the building; and the fees of such architect or firm shall not exceed two and one-half per cent of the amount named in said bill exclusive of cost of site; but said board may reject any and all plans and proceed anew until a satisfactory plan is secured.

(As amended 1893, c. 3, § 1.)

Tenth—The board shall secure an architect and an expert heating, ventilating and sanitary engineer of reputation, who shall not be competitors, to assist them. The architect and engineer, with such members of the board as shall be selected by the board to serve with them, shall form a committee to examine and recommend the most desirable plan; provided, however, that the commission shall not adopt any plan unless it shall first have received the indorsement of a majority of the commission. The architect and engineer provided for by this subdivision shall be subject to the provisions of section six of this act. Four premiums shall be given to the aggregate amount of two thousand dollars, to be awarded to the designs adjudged to stand in point of merit second, third, fourth, fifth, the accepted design to receive no premium other than the fee allowed by the board for designing and superintending the said building.

(As amended 1893, c. 3, § 2.)

Eleventh—No design shall be received after the date fixed for submission of plans. All drawings shall be exhibited in public at least two weeks before the award is made. All drawings shall be the property of the architects or firms submitting them and only used in whole or in part by agreement with

and compensation to their authors. All rejected drawings shall be called for within thirty days after the decision of the competition, after which time the board shall no longer be responsible for them.

Twelfth—The board shall issue to all architects upon request a printed schedule of the requirements for the building, including a list of the number and approximate area of the rooms, and such other general conditions as are essential to clearly set forth the requirements of the building.

(Id. § 8, amended as supra.)

§ 503. Limitation as to plan.

No plan shall be adopted unless based upon accurate details and minute specifications of the cost of supervision, labor, material and of other expenditures necessary for the erection and completion of said capitol building, including heating and ventilating apparatus, lighting and all other fixtures, nor until it shall be definitely ascertained that the entire cost of the same will in no event exceed the sum of two million dollars, it being understood that it is the object of this act to restrict the aggregate and entire cost of the capitol building and site thereof and all expenditures to be made or authorized by said board to this sum, and the board of commissioners herein appointed shall have this object in view, and all contracts awarded and plans accepted shall be awarded and accepted only after the board shall be satisfied that the cost of the building when completed shall not exceed this amount.

(1893, c. 2, § 9, as amended 1893, c. 3, § 7.)

§ 504. Proposals for purchase of site.

The said board of state capitol commissioners, as soon as practicable after the passage of this act, shall give due and reasonable notice to all parties interested, by sufficient publication in two daily newspapers of general circulation in this state, designating a time and place when and where the board will receive sealed proposals to sell or grant to the state of Minnesota land or grounds within a distance of three-fourths of a mile from the block of land now constituting the site of the present state capitol, sufficient in area, for the site of the new capitol herein provided for; such sealed proposals to be in every case accompanied by a plat of the lands or grounds proposed as such site; the price at which the same will be conveyed to the state of Minnesota, and the terms and conditions upon which such conveyance will be made, and any other information that said board may deem desirable; and every such proposal to be accompanied by a bond in the sum of ten thousand dollars, properly executed and signed by the party or parties making such proposal, and at least three financially responsible persons as sureties, conditioned for the faithful performance of such proposal in all its details. No proposals shall be received after the date designated in said notice for examining the same, and said published notice shall state that said proposals will be publicly opened and examined at a time and place in said notice named. And at the time and place in said notice named the said board shall meet and then and there publicly open such sealed proposals and examine the same; and as soon thereafter as may be practicable shall go upon and view the lands or grounds described in every such proposal that shall conform in all respects to the requirements of said published notice and the provisions of this act, and shall thoroughly investigate the same to the end that they may be fully informed as to the merits of the different proposed sites.

(1893, c. 2, § 10, as amended 1893, c. 3, § 3.)

§ 505. Power of board on acceptance of any proposal.

Said board are hereby authorized, after they shall have properly examined all such proposed sites, to select and secure such a site for the capitol building of Minnesota, which may include the present capitol site, as shall, in their judgment, be most advantageous to the state for the purpose contemplated in this act, and for that purpose said board are hereby authorized and empowered in the name and on behalf of the state to enter upon, purchase, take and acquire any lands and premises, public or private, that may be necessary, convenient or proper for the purpose of such site, or any part

MINNESOTA STATUTES 1894

Tit. 18] BOARD OF STATE CAPITOL COMMISSIONERS. §§ 505-506

thereof, and in case the owner of any such lands or grounds and said board cannot agree as to the value of the premises taken or to be taken for such use, the value thereof shall be determined by the appraisal of three reputable freeholders of the state not directly or indirectly interested in the premises to be taken, and to be appointed on the application of said board by any judge of the district court of any judicial district of this state. And said commissioners in their assessment of damages shall appraise such premises and the respective estates and interests therein at their actual market value, and upon return into court of such appraisement and upon payment into the same of the appraised value of the premises so taken, said premises shall be deemed to be and shall become the property of the state, save as herein otherwise provided. All provisions of title one chapter thirty-four of the General Statutes of one thousand eight hundred and seventy-eight, so far as reasonably applicable, shall apply to and govern proceedings under this act. All funds herein provided to be at the disposal of said board, together with all sums which may be, by any person or corporation, placed to their credit, may be used in payment of land purchased or condemned under the provisions of this act.

(1893, c. 2, § 11, as amended 1893, c. 3, § 4.)

**§ 506. Labor, material, etc., to be furnished by contract
—Limit of cost—Contracts—Preference.**

All labor, material, transportation, or construction required by the provisions of this act, as well as all job printing, advertising or other work which can be so done under this act, shall be done or furnished by contract. The board are authorized to contract for the construction of the entire building by a contractor who may undertake the whole work, or the said board may divide the work into appropriate classes and make separate contracts as to either of them as may or may not seem to them to be for the best interests of the state; but in the event of separate contracts the total amount to be paid for the whole work, including the purchase or securing of the site, the plans, supervision and erection of the building and all expenditures of every nature to be made or contracted for by virtue of this act, and shall not exceed said sum of two million dollars as aforesaid, and every contract shall be absolutely void which causes the aggregate of said contracts and expenditures to exceed said sum of two million dollars. All lettings of the work exceeding in amount the sum of five hundred dollars shall be advertised in two daily newspapers of general circulation in this state for not less than thirty days, and shall call for sealed bids, accompanied by such security as said board shall prescribe. All bids received by said board may be by them rejected, and whether accepted or rejected, shall within thirty days after decision thereon by said board be deposited in the office of secretary of state. In all contracts the interest of the state shall be protected by proper bonds to be determined by said board; provided, that no such bonds shall be in a sum less than one-half of the contract price. All contracts for material and labor shall be in writing, and shall be signed by the contractor and by the president or vice president of the board; in any case where there are bidders and materials from other states, the preference shall be given, the quality and terms being equally favorable, to the bidders and materials within this state. All contracts with the builders, architects, engineers, superintendents or material men, shall reserve the right of the board, for good cause shown, to annul the contract, and the board shall make no allowance for damages, but only for expenses incurred and for labor performed. Such per cent, not less than ten, as in the judgment of the board shall seem proper, shall be reserved from payments on the monthly estimates on work contracted, until such contract or the portion thereof to which such payments are by the terms of such contract made applicable, shall have been completed, inspected and accepted. All materials contracted for shall be of the best quality, and so far as the said board are of the opinion that the same can be done consistently with the best interests of the state, preference shall in all cases be given to Minnesota material and labor, and the directions, plans and specifications of the work shall be executed by skilled and reputable architects, contractors, artists, mechanics and laborers. No contract shall

	506	
95	118-2	
	506	
95	- 354	
97	- 307	
	506	
99	- 254	
72-NW	565	
72-NW	568	

MINNESOTA STATUTES 1894

§§ 506-509

STATE OFFICERS.

[Ch. 6

be made which shall bind the state to the payment of any sum until the same shall be by law made applicable thereto.

(1893, c. 2, § 12, as amended 1893, c. 3, § 5.)

§ 507. Power to employ certain persons—How paid.

For the due prosecution of the work hereby committed to their charge the said board are hereby authorized to and shall employ such architects, mechanics and laborers as may be deemed necessary, and payment of all expenditures made in or in any manner connected with the securing of a site and erection and construction of said building and for the services of the members of said board, of the governor, superintendent and secretary and consulting architects, and for traveling expenses of the governor and members of the said board in the performance of their duties under this act, shall be made upon full and complete statements or accounts, which shall be made and certified to by a majority of the members of said board and approved by the governor; such statement of account shall then be laid before the state auditor for examination, and if found correct and in compliance with this act, shall be audited and shall be paid by the state treasurer, upon the warrant of the state auditor, out of any money in his hands for such purpose, such warrant to be drawn in favor of and to the order of the person or persons entitled to receive the amount therein named.

(1893, c. 2, § 13.)

§ 508. Legal adviser.

The attorney general shall be the legal adviser of the said board.

(Id. § 14.)

[TITLE 19.]

FUNDING COMMISSION.¹³

§ 509. How constituted.

The governor, auditor and treasurer of the state of Minnesota are hereby constituted a funding commission for the purposes hereinafter specifically set forth.

(1891, c. 31, § 1.¹⁴)

¹³ For act concerning mutilated, lost, and destroyed bonds, see post, § 2225 et seq.

¹⁴ An Act to Create a Funding Commission to Redeem and Refund the Minnesota State Railroad Adjustment Bonds, and to Authorize the Transfer of Internal Improvement Land Contracts and the Issue of New Bonds, and Authorizing a Tax for the Purpose of Redeeming Such New Bonds.

Whereas, Chapter one hundred and two of the General Laws of the state of Minnesota for the year one thousand eight hundred and eighty-one, as amended by chapter one of the General Laws of said state for the year one thousand eight hundred and eighty-one, extra session, provided for the adjustment of certain alleged claims against the state of Minnesota, and for the issue of the bonds of said state in payment of such alleged claims, said bonds to be known and styled "Minnesota state railroad adjustment bonds," to bear interest at the rate of four and one-half per cent per annum, and to mature in thirty years from July first, one thousand eight hundred and eighty-one, subject to the right of the state to redeem them after ten years from said July first, one thousand eight hundred and eighty-one; and

Whereas, The state will have a right to redeem said bonds on the first day of July, one thousand eight hundred and ninety-one; and

Whereas, Chapter one hundred and four of the General Laws of the state of Minnesota for the year one thousand eight hundred and eighty-one, as amended by Chapter two of the General Laws of said state for the year one thousand eight hundred and eighty-one, extra session, provided for the creation of a sinking fund from the sale of internal improvement land, and for the application of the principal and interest derived from said sales in the payment and liquidation of the said Minnesota state railroad adjustment bonds.

For other acts than those mentioned in the foregoing preamble, see—

As to adjustment of state railroad bonds, Laws 1866, c. 5; Laws 1871, c. 21; Laws 1877, c. 92; Laws 1878, c. 35; Laws 1883, cc. 77, 95.

As to destruction of such bonds, Laws 1885, cc. 217, 227.

As to sinking fund, Laws 1867, c. 53; Laws 1881, Ex. S. c. 71; also, Laws 1870, c. 13.

For "Minnesota Revenue Bonds," see Laws 1883, c. 130.

§ 510. Transfer to school fund.

The said commission shall, immediately after the first day of July A. D. one thousand eight hundred and ninety-one cause a transfer to be made on the records of the state land commissioner of all internal improvement land contracts to the permanent school fund of the state, amounting in the aggregate to about one million eight hundred thousand dollars, such transfers to be made by stamping opposite each tract or lot so transferred the following words: "Permanent school fund." Such transfer shall have the effect to permanently set apart such lot or tract, and all moneys, principal or interest, that shall be paid in on account of said tract or lot to the school fund of the state, as completely and irrevocably as are the school lands of the state; and thereafter there shall apply to the lands so transferred the same constitutional and legislative restrictions and obligations as now apply to the school lands of the state.

(Id. § 2.)

§ 511. Same.

The said funding commission shall also at the same time transfer and set over to the permanent school fund all bonds now held in the internal improvement land fund by stamping on said bonds the following words: "Minnesota school fund bonds."

(Id. § 3.)

§ 512. State railroad adjustment bonds.

The transfer of the land contracts and bonds as above provided shall have the effect and operate as a cancellation of a like amount in value of the Minnesota state railroad adjustment bonds now held by the permanent school fund. And it shall be the further duty of the said funding commission to destroy, by burning, the bonds so cancelled, first making a record of each bond so destroyed, which record shall note the date of such destruction, together with the denomination and number of each bond, which record shall be duly attested and officially signed by each member of said funding commission.

(Id. §4.)

§ 513. Transfer to university fund.

The funding commission shall also at any time after January first, one thousand eight hundred and ninety-two, and from time to time thereafter, whenever there shall be internal improvement land contracts to the amount of twenty-five thousand dollars on record in the office of the commissioner of the state land office, transfer said contract to the university fund by stamping opposite each tract or lot so transferred the following words: "Permanent university fund," which transfer shall have the effect of permanently transferring said tracts or lots to the permanent university fund, together with all subsequent payments of principal or interest which shall become due and be paid on account of such tracts or lots. It shall be the duty of the said funding commission to cancel and destroy, by burning, as provided by section four of this act, of an equivalent amount in value of the Minnesota state railroad adjustment bonds, now held and carried by the permanent university fund.

(Id. § 5.)

§ 514. State funding bonds.

After making the transfers above provided for there will still remain outstanding of the Minnesota state railroad adjustment bonds an amount aggregating nearly one million six hundred thousand dollars. Authority, therefore, is hereby given to the funding commission, if in their judgment the interests of the state will be subserved thereby, to call in all outstanding Minnesota state railroad adjustment bonds, except the bonds now held by the permanent university fund, by giving the notice stipulated and required by said adjustment bonds, and issuing in lieu thereof an equivalent amount of new bonds, to be known and styled "Minnesota state funding bonds," which shall mature and be payable on July first A. D. one thousand nine hundred and twenty-one. The principal and interest shall be payable in the city of New York, the interest to be payable semi-annually. The state, however, expressly reserves

§§ 514-521

STATE OFFICERS.

[Ch. 6

the right to call in bonds to an amount not exceeding one hundred and fifty thousand dollars in any one year after five years from the date of issue of said bonds; the bonds so called in to be designated by lot, and not in the numerical order of issue.

(Id. § 6.)

§ 515. Same—How executed.

The bonds so issued shall be signed by the governor and secretary of state and countersigned by the state auditor.

(Id. § 7.)

§ 516. Same—Funding tax.

It shall be the duty of the state auditor to levy a tax of two-tenths of a mill on all the taxable property of the state, commencing in the year one thousand eight hundred and ninety-two, and annually thereafter until all of the bonds so issued shall have been redeemed. Such tax shall be designated as the "funding tax," which shall be used and applied for no purpose whatever except for the payment of the principal and interest of said funding bonds.

(Id. § 8, as amended 1893, c. 128.)

§ 517. Same—Fractional adjustments.

In making the transfers of the internal improvement land contracts provided for by this act, the funding commission may draw from either the permanent school fund or from the permanent university fund cash sufficient to make fractional adjustments.

(1891, c. 31, § 9.)

§ 518. Form of bond.

The funding commission shall provide the form of bond to be issued, and there is hereby appropriated from the revenue fund of the state the sum of five hundred dollars, or so much thereof as may be necessary for the purpose of carrying into effect the provisions of this act.

(Id. § 10.)

[TITLE 20.]

PAYMENTS FROM REVENUE FUND.

519-524
95 362

§ 519. Interest allowed on warrants cashed by banks, etc.

That the governor, auditor, and treasurer are authorized, whenever in their judgment it becomes necessary, in order to meet the current demands in the revenue fund for the payment of appropriations from said fund, to make agreements or contracts with banks or other corporations or persons, to pay warrants issued against the revenue fund in payment of any claim or demand upon said fund for the payment of which the legislature has made or hereafter may make an appropriation, and to pay interest on such warrants until the state treasury can redeem the same, at a rate not exceeding six per cent. per annum: *provided*, that the amount of such warrants outstanding at any time shall not exceed one hundred thousand dollars.

(1887, c. 215, § 1; G. S. 1878, v. 2, c. 6, § 44h.)

§ 520. Same—Standing appropriation.

That the sum of six thousand dollars, or so much thereof as may be necessary, is hereby annually appropriated from the general revenue fund for the purpose of paying interest on loans provided for in section one of this act.

(1887, c. 215, § 2; G. S. 1878, v. 2, c. 6, § 44i.)

§ 521. State officers authorized to make loan.

That the governor, state auditor and state treasurer be and the same are hereby authorized to borrow on the credit of the state, the sum of four hundred thousand dollars, to meet extraordinary expenditures of the state incurred under appropriations made, and to be hereafter made, payable from the revenue fund, at a rate of interest not exceeding four per cent. per

MINNESOTA STATUTES 1894

Tit. 21]

BOARD OF AUDITORS.

§§ 521-5-6

annum, payable annually at the office of the state treasurer, which money so borrowed shall be paid at any time within eight years at the option of the state.

(1889, c. 239, § 1.¹⁵)

§ 522. Same—"Minnesota revenue bonds"—"Minnesota building bonds."

This loan shall be made upon state bonds, which bonds shall be signed by the governor, and attested by the secretary of state under the great seal of the state and countersigned and registered by the state auditor. It shall be the duty of the governor and state auditor to cause to be prepared for such purpose, bonds of the state to the amount of two hundred and fifty thousand dollars, to be known and styled "Minnesota revenue bonds," and bonds to the amount of one hundred and fifty thousand dollars, to be known and styled "Minnesota building bonds," which shall be of denominations not less than one thousand dollars each, and shall on their face be made payable on or before eight years from their date, at the office of the state treasurer and shall pledge the faith and credit of the state to the payment thereof.

(Id. § 2.)

§ 523. Same—Payment of interest.

Whenever the interest on the above bonds shall become due, the same shall be paid by the state treasurer.

(Id. § 3.)

§ 524. Payment—Annual tax—Redemption fund.

For the purpose of providing a fund for the redemption of said bonds and payment of interest thereon, the state auditor is hereby authorized and required to levy for eight consecutive years an annual tax of one tenth of one mill on the dollar of the taxable property of the state, which tax when collected, shall be known as the "redemption fund" and shall, until all such bonds and interests are paid, be applied solely to the payment thereof in the manner following, viz: Whenever the amount thereof shall exceed a sum sufficient to pay the interest falling due at the next annual period of payment, then such excess remaining, after setting apart sufficient for the payment of such interest, shall be used and paid for the redemption of so many of said bonds as the same will redeem. When said bonds are all redeemed and all interest thereon paid, the residue of said fund, and all subsequent collections of said tax shall be transferred to the general revenue fund of the state.

(Id. § 4.)

[TITLE 21.]

BOARD OF AUDITORS.

§ 525. Official bonds shall be approved.

That all official bonds of state officers, and of the treasurers of the several public, educational, charitable, penal, and reformatory institutions belonging to the state, shall be approved by a board of auditors, consisting of the governor, secretary of state, and attorney general, or by the governor and one other of said officers.

(1883, c. 131, § 1; ¹⁶ G. S. 1878, v. 2, c. 6, § 154.)

§ 526. Shall be filed and recorded.

Said bonds shall be deposited with the secretary of state, who shall file, record, and retain the same for the use of all persons interested therein.

(1883, c. 131, § 2; G. S. 1878, v. 2, c. 6, § 155.)

¹⁵ An act to provide for borrowing money to defray the extraordinary expenditures of the state government.

¹⁶ § 6 repeals all inconsistent acts.

§ 527. Approval of attorney general to be indorsed thereon.

Previous to such filing the secretary of state shall obtain in writing upon all such bonds the approval of the attorney general as to their statutory form and execution, and in case of his non-approval on account of any defect in the form or execution of the same, the attorney general shall indorse thereon the reasons for such non-approval, and the secretary of state shall require the officer or treasurer executing the said bond to execute without delay a bond perfected according to the statutes, which shall be approved, recorded, and filed as herein provided; but nothing in this act shall be construed as invalidating the original bond for any portion of such officer's or treasurer's term of office previous to the filing of the perfected bond with the secretary of state.

(1883, c. 131, § 3; G. S. 1878, v. 2, c. 6, § 156.)

§ 528. New bond required, when.

The said board of auditors shall require any of the said officers or treasurers to give a new bond, with sureties to be approved by them, whenever, in the opinion of a majority of said board, the sureties, or any of them, on the original bond are deemed insufficient for any cause; and they shall also require a new bond, with sureties to be approved by them, whenever the penalty of such original bond is deemed insufficient: *provided*, that when a new bond is taken under the provisions of this section, the original bond, and the rights and liabilities of the parties thereto incurred or existing at or prior to the time of the approval and acceptance of such new bond, shall in nowise be affected or impaired.

(1883, c. 131, § 4; G. S. 1878, v. 2, c. 6, § 157.)

§ 529. Treasurers of public institutions.

That the several boards of trustees and directors of the public institutions of the state be, and are hereby, instructed and required to fix the penal sum of the several treasurers of such institutions high enough to cover double the amount likely to come into their hands officially at any one time during the term for which such bond is given, and that they are required to call promptly for the renewal of the bond of any such treasurer on his reappointment or re-election to such office.

(1883, c. 131, § 5; G. S. 1878, v. 2, c. 6, § 158.)

528
95 . 295
528
97 - 338