

Statutes
1878

THE
GENERAL STATUTES
OF THE
STATE OF MINNESOTA,

As Amended by Subsequent Legislation.

PREPARED BY
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EDITED AND PUBLISHED UNDER THE AUTHORITY OF CHAPTER 67 OF THE LAWS
OF 1878, AND CHAPTER 67 OF THE LAWS OF 1879.

FOURTH EDITION.

WITH SUPPLEMENTS,
CONTAINING ALL THE GENERAL LAWS IN FORCE UP TO THE END OF
THE LEGISLATIVE SESSION OF 1883.

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be sworn to try the issue joined in said cause or proceeding: *provided*, that if a sufficient number does not appear for the trial of said cause, the court shall cause talesmen to be called as in other cases.

^{22 M. 378.}
 § 16. *Substitute for sheriff, when interested—time of striking and service.* If the said sheriff is interested in the cause or proceeding, or related to either of the parties, or does not stand indifferent between them, the judge of the said court may name some judicious and disinterested person to strike the jury, and to do and perform all things required to be done by such sheriff, relating to the striking of the same; but in no case shall it be necessary to strike such jury more than six days previous to the term of the court at which the action or proceeding is to be tried, and three days' service of the venire shall be held sufficient.

^{22 M. 378.}
 § 17. *Party asking for struck jury, to pay fees.* The party requiring such struck jury, shall pay the fees for striking the same, and the legal fees for mileage and attendance, for each juror so attending, and shall not have any allowance therefor in the taxation of costs.

§ 18. *Struck jury may be continued, when.* A jury struck for a trial of any issue at a particular term of the court, may be continued with the continuance of the cause, and summoned as jurors at a subsequent term, provided both parties consent thereto, but not otherwise.

§ 19. *Limitation of provisions of this title.* The provisions of this title shall not extend to the trial of any indictment for any offence where the party indicted is entitled to challenge peremptorily, or without cause shown, more than two jurors.

CHAPTER LXXII.

OATHS AND ACKNOWLEDGMENTS.

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TITLE 1.

OF PERSONS REQUIRED TO TAKE OATHS, WHO MAY ADMINISTER THE SAME, AND THE FORMS THEREOF.

§ 1. *Officers required to be sworn.* Every person elected or appointed to any public office, whether executive, legislative or judicial, all county and local officers, their deputies, clerks and assistants, clerks of court, referees, commissioners, arbitrators and assessors shall, before entering on the discharge of their official duties, take and subscribe an oath as hereinafter prescribed.

§ 2. *Who may administer oaths of office.* When no other provision is made by law, oaths of office may be administered by any judge or justice of the peace, or the presiding officer, secretary or clerk of either house of the legislature.

§ 3. **Who may administer oaths.** Judges of the supreme, district and probate courts of this state, the judge of the court of common pleas of Ramsey county, and the clerks of each of said courts, county commissioners and registers of deeds, and all justices of the peace, shall have power, within their respective jurisdictions, to administer all oaths required or authorized by law; and all committees of the legislature, or either branch thereof, all commissioners, referees and committees of persons appointed by any of said courts, are authorized to administer oaths necessary to be taken for the establishment of any fact or the furtherance of justice, in any matter coming before such committee, referee, commissioner or person for investigation. (*As amended 1868, c. 62, § 1.*)

*§ 4. **County auditors, but not their deputies, may administer oaths.** That county auditors duly elected and qualified in the several counties of this state, are, by this act, authorized and empowered to administer oaths in their respective counties, and certify the same under the seal of their office; but no deputy auditor, as such, shall exercise such power under this act. (*1871, c. 91, § 1.*)

*§ 5. **Clerks of federal courts may administer oaths and take acknowledgments.** The clerks of the circuit and district courts of the United States for the district of Minnesota shall have the same authority to administer oaths, and to take the acknowledgment of instruments, which notaries public now have, or hereafter may have, under the laws of this state. (*1877, c. 93, § 1.*)

*§ 6. **Town and city clerks and recorders may administer oaths, etc.** That the town clerks of the several towns, city clerks of all cities, and recorders of all villages, in this state, are hereby authorized to administer all oaths, and take all acknowledgments of instruments, authorized or required by law. (*1878, c. 49, § 1.*)

§ 7. (SEC. 4.) **Oath, how administered.** The usual mode of administering oaths now practised in this state, with the ceremony of holding up the hand, shall be observed in all cases in which an oath may be administered by law, except as hereinafter provided.

§ 8. (SEC. 5.) **Forms of oaths.** The following are the forms of oaths to be administered to officers and persons as hereinafter provided:

OATHS OF MEMBERS AND OFFICERS OF THE LEGISLATIVE AND EXECUTIVE DEPARTMENTS, AND ALL OTHERS OCCUPYING AN OFFICE NOT JUDICIAL IN ITS CHARACTER.

You do solemnly swear that you will support the constitution of the United States, the constitution of the state of Minnesota, and faithfully discharge the duties of your office to the best of your judgment and ability. So help you God.

OATH OF JUDICIAL OFFICERS.

You do solemnly swear that you will support the constitution of the United States, the constitution of the state of Minnesota, and discharge the duties of your office faithfully and impartially, according to your best learning, judgment and discretion. So help you God.

OATH OF REFEREES, COMMISSIONERS AND OTHERS APPOINTED TO EXAMINE, HEAR AND DETERMINE UPON ANY MATTER, AND MAKE REPORT THEREOF, TO ANY COURT OR OTHER TRIBUNAL.

You do solemnly swear that you will faithfully and fairly hear and examine this action, wherein..... is plaintiff and....., defendant, and make a just and true report thereon, according to the best of your understanding and ability. So help you God.

OATH TO BE ADMINISTERED TO THE GRAND JURY.

You and each of you do solemnly swear that you will diligently inquire,

and true presentment make, of all public offences committed or triable within this county, of which you have legal evidence, according to your charge; the counsel of the state, your own counsel, and that of your fellows, you shall keep secret; you will present no person through malice, hatred or ill-will, nor leave any person unpresented through fear, favor or affection, or reward, or the promise or hope thereof; but you will present things truly as they come to your knowledge, to the best of your understanding, according to the laws of this state. So help you God.

OATH OF OFFICER ATTENDING THE GRAND JURY.

You solemnly swear that as officer of the grand jury you will keep their counsel and that of the state, and not disclose anything relative to their proceedings. So help you God.

OATH TO BE ADMINISTERED TO PETIT JURORS IMPANNELED FOR THE TRIAL OF ANY CIVIL ACTION OR PROCEEDING.

You and each of you do solemnly swear that you will well and truly try the matters in issue in this action (or proceeding) according to the evidence given you in court, and the laws of this state, and a true verdict give; your own counsel and that of your fellows you will duly observe and keep; you will say nothing to any person concerning this action, nor suffer any one to speak to you about the same but in court, and when you have agreed on a verdict, you will keep it secret until you deliver it in court. So help you God.

22 M. 173, 177; 23 M. 528.

OATH OF PETIT JURORS IN CRIMINAL CASES.

You do solemnly swear that without respect of persons, or favor of any man, you will well and truly try, and true deliverance make, between the state of Minnesota and the defendant, according to the evidence given you in court, and the laws of this state. So help you God.

OATH OF JURORS IN A JUSTICE'S COURT IN CIVIL CAUSES.

You do solemnly swear that you will well and truly try the matters in difference between the parties in this cause, and a true verdict give, according to the evidence given you in court, and the laws of this state. So help you God.

OATH OF JURORS IN A JUSTICE'S COURT IN CRIMINAL CASES.

You do solemnly swear that you will well and truly try this cause, between the state of Minnesota, (county or city of,) and the accused, and a true verdict give, according to the evidence given you in court, and the laws of this state. So help you God.

OATH OF OFFICERS TAKING CHARGE OF A PETIT JURY IN THE DISTRICT COURT, OR A JUSTICE'S COURT.

You do solemnly swear that you will keep this jury together in some suitable place, without food or drink, unless ordered by the court; that you will suffer no person to speak to them upon the matters submitted to their charge, until they are agreed, nor will you speak to them yourself about the cause, except to ask them whether they are agreed; that you will permit no person to listen to, or overhear, any conversation or discussion they may have while deliberating on their verdict; that you will not disclose their verdict, nor any conversation they may have respecting the cause, until they have delivered

their verdict in court, or been discharged by order of the court. So help you God.

OATH OF OFFICER TAKING CHARGE OF JURY DURING RECESS OF COURT.

You do solemnly swear that you will keep together the persons composing this jury, until they return into court, and that in the mean time you will suffer no one to speak to them, or speak to them yourself, concerning the cause on trial, or any matter thereto relating. So help you God.

OATH OF WITNESSES.

You do solemnly swear that the evidence you shall give relative to the cause now under consideration shall be the whole truth, and nothing but the truth. So help you God.

INTERPRETER'S OATH.

You do solemnly swear that you will justly, truly and impartially interpret to the oath about to be administered to him, and the testimony he shall give relative to the cause now under consideration. So help you God.

OATH OF PERSONS SIGNING AFFIDAVITS, VERIFICATIONS AND OTHER PAPERS.

You do solemnly swear that the contents of this affidavit, (verification or paper,) by you subscribed, are true, as therein stated. So help you God.

OATH OF ATTORNEYS.

You do solemnly swear that you will support the constitution of the United States, the constitution of the state of Minnesota, and that you will conduct yourself as an attorney and counsellor in the courts of this state, in an upright, courteous and gentlemanly manner, to the best of your learning and ability, with all good fidelity as well to the court as to the client; that you will use no falsehood or deceit, nor delay any person's cause for lucre or malice. So help you God.

§ 9. (SEC. 6.) **Certain words substituted in oath, when.** In administering any oath, the word "swear" may be omitted, and the word "affirm" substituted, whenever the person to whom the obligation is to be administered is religiously scrupulous of swearing or taking an oath in the prescribed form; and in such case, the words "so help you God" may be omitted, and the words "under the pains and penalties of perjury" substituted; and every person so affirming shall be considered, for every legal purpose, privilege, qualification or liability, as having been duly sworn.

§ 10. (SEC. 7.) **Form of oath in case of infidels, etc.** When an infidel, or any person not a believer in any religion, is offered as a witness, the following form of oath shall be used: You do honestly and sincerely promise and declare that the testimony you shall give relative to the cause now under consideration shall be the whole truth and nothing but the truth, and this under the pains and penalties of perjury; and any person so promising and declaring shall be considered as having been duly sworn.

TITLE 2.

ACKNOWLEDGMENTS.

§ 11. (SEC. 8.) **Who may take—seal—instruments legalized.** Judges of the supreme and district courts and courts of probate, the clerks of said courts, notaries

public, justices of the peace, registers of deeds, court commissioners and county auditors, are authorized to take the acknowledgments of deeds and other instruments in writing, within their several and respective jurisdictions; and whenever any officer having or using a seal of office takes an acknowledgment, he shall affix his seal to the instrument so acknowledged; and all instruments heretofore acknowledged before any of the officials named are hereby legalized, and declared as valid as though such officials had, at the time of taking such acknowledgments, been so authorized to do. (*As amended 1876, c. 40, § 1.*)

See ante, §§ 5 and 6.

§ 12. (SEC. 9.) **Depositions, who may take and certify.** Any person qualified to take acknowledgments, as aforesaid, may take and certify depositions to be used in the courts of this state, except when otherwise expressly provided.

§ 13. (SEC. 10.) **Commissioners in other states—appointment—powers.** Such commissioners as the governor shall appoint in any of the United States, or territories of the United States, to take the acknowledgment of deeds or other instruments in writing to be used in this state, shall hold their office during the pleasure of the governor, and shall have power to take the acknowledgment and proofs of the execution of any deed or other conveyance or lease of any lands lying in this state, and of any contract, letter of attorney, or any other writing, under seal or not, to be used or recorded in this state.

§ 14. (SEC. 11.) **Same—acknowledgments taken by them.** Such acknowledgment or proof, so taken according to the laws of this state, and certified to by any such commissioner under his seal of office, and annexed to or indorsed on such instrument, shall have the same power and effect as if the same had been made before any officer authorized to perform such acts in this state.

§ 15. (SEC. 12.) **Same—may administer oaths and take depositions.** Every commissioner appointed as before mentioned, shall have power to administer an oath which may be lawfully required in this state, to any person willing to take the same, and to take and duly certify all depositions to be used in any of the courts of this state, in conformity to the laws thereof, either on interrogatories proposed under a commission from any court of this state, or by consent of parties, or on legal notice given to the opposite party; and all such acts shall be as valid as if done and certified, according to law, by a proper officer in this state.

§ 16. (SEC. 13.) **Same—oath and seal of commissioner.** Every such commissioner, before performing any duty, or exercising any power, by virtue of his appointment, shall take and subscribe an oath or affirmation, before a judge or a clerk of one of the courts of record of the state in which such commissioner resides, well and faithfully to execute and perform all the duties of such commissioner, under and by virtue of the laws of the state of Minnesota; which oath, with a description or impression of his seal of office, shall be filed in the office of the secretary of this state.