

*James C. Child*  
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THE

PUBLIC STATUTES

OF THE

STATE OF MINNESOTA.

(1849—1858.)

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COMPILED BY  
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PUBLISHED BY STATE AUTHORITY.

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SAINT PAUL:  
THE PIONEER PRINTING COMPANY.

1859.

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GOVERNOR.

An Act providing for the election of Governor of the State, and further to prescribe and define the powers and duties of his office.

[Passed August 9, 1858.] c. 87

(1.) SEC. I. *Be it enacted by the legislature of the state of Minnesota:* The governor shall be chosen by the qualified electors of the state, at the general election in A. D. one thousand eight hundred and fifty-nine, and at the general election biennially thereafter, and he shall assume the duties of his office on the first day of January next succeeding his election, or as soon thereafter as practicable. Governor; time of electing.

(2.) SEC. II. The governor is hereby constituted the legal custodian of all the property of the state, not specially entrusted to other officers by law; and he is hereby authorized and empowered to take summary possession of such property of the state, without any process of law; and to adopt such measures as he may deem proper to preserve it from injury or deterioration. Governor to be legal custodian of state property.

(3.) SEC. III. It shall be the duty of the several officers of the executive department to make a written report to the governor of the state, of the public business entrusted to their charge, whenever required by him so to do, and the attorney general shall deliver a written opinion upon any subject connected with the affairs of the state, when requested by the governor. Officers of department to make reports to governor.

(4.) SEC. IV. All commissions to civil officers in this state shall be issued and signed by the governor, and countersigned by the secretary of state under the seal of the state, and a record thereof kept in the office of the secretary of state. Commissions to civil officers, by whom signed.

(5.) SEC. V. In issuing requisitions for the rendition of fugitives from justice, it shall be discretionary with the governor, whether to allow any sum of money or not, for the expenses incurred therein, and no such expenses shall be paid by the state, or any county, unless on the certificate of the governor, to the effect that the case is such an one, as the state or county ought to pay for the pursuit and rendition of said fugitive. Requisitions; discretionary power as to payment of expenses.

Reprieves and pardons; power to grant.

(6.) SEC. VI. The governor shall have power to grant reprieves and pardons after conviction, except in cases of impeachment.

Vacancies in offices appointed by legislature, to be filled by appointment.

(7.) SEC. VII. When any officer, the right of whose appointment is vested in the legislature, shall, during the recess, die, or his office by any means become vacant, the governor shall have power to fill such vacancy by granting a commission, which shall expire at the commencement of the next session of the legislature.

Annual thanksgiving day.

(8.) SEC. VIII. The governor 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 a nation, and no business shall be transacted on that day at any of the departments of state.

Extra sessions of legislature; authority to convene.

(9.) SEC. IX. Whenever the governor shall deem it necessary to convene an extra session of the legislature, he shall do so by proclamation, giving such notice as he shall deem 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 have been convened.

Impeachment, resignation or removal of the governor.

(10.) SEC. X. In case of the death, impeachment, resignation or removal of the governor from office, the lieutenant governor shall exercise the office of governor, until he be acquitted, or another governor shall be duly qualified. And in case of the impeachment of the lieutenant governor, or his death, removal from office, resignation, or absence from the state, the president of the senate shall succeed to the office and exercise the duties thereof, until a governor shall be elected and qualified.

Prohibition to hold office of governor.

(11.) SEC. XI. No member of congress, or person holding any office under the United States or this state, shall execute the office of governor.

Private secretary; his duties.

(12.) SEC. XII. The governor 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 shall deem necessary. 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.

Great seal, when new one to be procured.

(13.) SEC. XIII. Whenever the great seal of the state shall be lost, or so worn or defaced as to render it unfit for use, the governor shall provide a new one.

Act to take effect.

(14.) SEC. XIV. This act shall take effect from and after its passage.

SECRETARY OF STATE.

An Act to authorize the appointment of an Assistant Secretary of State and defining his duties.

[Passed July 14, 1858.] c. 57

Assistant secretary of state.

(15.) SEC. I. *Be it enacted by the legislature of the state of Minnesota:* The secretary of state is hereby authorized to appoint an assistant secretary of state, who during the absence or inability of the secretary of state, shall execute all the duties pertaining to that office.

Oath of office.

(16.) SEC. II. The assistant secretary of state before entering upon the discharge of his duties, shall take and subscribe the same oath of office as that prescribed for other state officers, which said oath, together with his appointment shall be filed in the office of the secretary of state.

Term of office.

(17.) SEC. III. The office of assistant secretary of state shall be established for the term of one year.

Salary.

(18.) SEC. IV. The salary of the assistant secretary of state shall be six hundred dollars per annum, payable in the same manner as the salaries of other state officers.

Reprieves and pardons; power to grant.

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## AUDITOR OF STATE.

An Act prescribing the general duties of Auditor of State.

[Passed July 23, 1858.] c. 65

- (19.) SEC. I. *Be it enacted by the legislature of the state of Minnesota:* That there shall be elected by the qualified voters of the state, every three years, one auditor of state, who shall have an annual salary of one thousand dollars per annum, payable quarterly, and who, previous to entering on the duties of his office, shall enter into bond with one or more securities, 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; and he shall take and subscribe an oath or affirmation to faithfully discharge the duties of his office, which oath, together with his bond, shall be deposited in the office of secretary of state. Term of office; salary; bond.
- (20.) SEC. II. The auditor shall keep his office at the seat of government, and do and perform all the duties appertaining thereto which are, or may be, required of him by law or resolution of the legislature. Location of office.
- (21.) SEC. III. The auditor 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 shall be certified and signed by the auditor. Seal of auditor.
- (22.) SEC. IV. That all accounts and claims against the state, which shall be 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 shall issue bills or warrants, payable at the state treasury, for the sums which shall be found due from the state, specifying in each bill the date of its issue, and the name of the person to whom payable. Accounts and claims to be adjusted.
- (23.) SEC. V. That the bills or warrants to be so issued, shall be printed on separate sheets of paper, and each bill or warrant shall be entered and numbered, and the number corresponding therewith shall be on the part of the sheet from which such bill shall be cut; and all such parts of sheets containing the corresponding numbers, shall be carefully preserved by the auditor in his office. Form and manner of issuing warrants.
- (24.) SEC. VI. That when the amount due from the state to any person shall exceed twenty dollars, the auditor, if requested, shall divide the sum due into parcels of not less than ten dollars each, and shall issue bills or warrants for the several parcels into which the amount shall be so divided. Division of claims into small warrants.
- (25.) SEC. VII. That for the redemption of all bills and warrants, issued in conformity with the provisions of this act, the credit of the state is hereby pledged. State credit pledged for redemption.
- (26.) SEC. VIII. The auditor shall enter, in progressive order, in a book or books to be by him provided for that purpose, the number of each bill or warrant by him issued, the amount thereof, the date of its issue, and the name of the person to whom issued. Registry of warrants.
- (27.) SEC. IX. The auditor 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 have been or may be by law made returnable to his office, and shall keep a file in progressive order of all receipts and other vouchers relative to the business of his office. Record of accounts, &c.
- (28.) SEC. X. The auditor shall keep a regular account with the treasurer of this state, in suitable books, to be provided as aforesaid, in which he shall charge the treasurer with all moneys by him received, and Account with treasurer to be kept.

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credit him with all bills or warrants by him redeemed and deposited in the office of the auditor.

Annual statement to the legislature.

(29.) SEC. XI. 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 shall commence its annual sessions; also of the unexpended balances (if any there be) of the several appropriations, the amount remaining in the treasury, the amount of bills or warrants issued and not redeemed (if any there be) and shall 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 shall deem proper for the consideration of the legislature.

Exhibit of books on requirement of the legislature.

(30.) SEC. XII. That 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.

Supervisors to furnish plats of townships.

(31.) SEC. XIII. The board of supervisors of the several townships shall furnish the auditor of state with copies of their several township plats, free of charge, together with such other information in relation to the original entry, purchase or grant as will enable him to know what lands are or may become subject to taxation.

Certified copies thereof.

(32.) SEC. XIV. The auditor shall deliver to any person applying therefor, a certified copy of any survey, or any other document in his office, and all such copies certified by the auditor, under the official seal, shall be received as legal evidence in all courts and places within this state.

Fees for same.

(33.) SEC. XV. That the person applying for such copy shall pay ten cents for each hundred words contained therein, and twenty-five cents for each plat of survey laid down in such copy.

Lands subject to taxation within the previous year.

(34.) SEC. XVI. That the auditor of state shall transmit to the register of deeds of each county, on or before the first day of April in each year, a list of lands within such county, which shall have become subject to taxation within the preceding year, agreeable to the information by him received from the several land offices in the state.

Forms and instructions for assessing and collecting tax.

(35.) SEC. XVII. The auditor of state shall from time to time prepare and transmit to the register of deeds, such general forms and instructions, in conformity with the laws in force, as in his opinion may be necessary to secure uniformity in assessing, charging, collecting, and accounting for the public revenue; and assessors and treasurers shall observe such forms and instructions.

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Remission of penalty for non-payment of taxes.

(36.) SEC. XVIII. The auditor of state is hereby authorized to remit any penalty for the non-payment of taxes, when satisfied that the same is improperly charged, or that such penalty occurred in consequence of the negligence or error of any officer required to do any duty relative to the levy and collection of such taxes; and may from time to time correct all errors which he shall discover in the duplicate of taxes assessed in any county.

County taxes paid into state treasury.

(37.) SEC. XIX. That the auditor of state shall annually make out and transmit to the register of deeds of each county, on or before the first day of May, a statement of the taxes paid into the state treasury during the preceding year, and belonging to such county; and the sums named in such statement may, at any time thereafter, be drawn from the treasury by the treasurers of the respective counties.

Chief clerk, appointment.

(38.) SEC. XX. The auditor of state may appoint a chief clerk, whose appointment shall be evidenced by a certificate thereof, under the official seal of the auditor, and shall continue during the pleasure of the auditor.

(39.) SEC. XXI. That the chief clerk previous to entering upon the duties of his appointment, shall give bond, with two or more securities, 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.

Bond of clerk.

(40.) SEC. XXII. That in case of the absence or inability of the auditor, the chief clerk shall do, and perform the several duties required of the auditor.

Duties of clerk.

(41.) SEC. XXIII. That the expense of procuring the books directed by this act to be procured, and the copies of entries, surveys, and other documents from the land offices, and all other contingent expenses of his office, shall be paid by the auditor, out of the contingent fund appropriated for the use of said office.

Expenses of office to be paid out of contingent fund.

(42.) SEC. XXIV. That if any county treasurer, or other officer concerned in the collection of the state revenue, shall fail to collect, fail to make proper return, fail to make settlement, or fail to pay over all moneys by him received and belonging to the state, at the time and in the manner required by law, the auditor of state shall, at the expiration of fifteen days next, after the expiration of the time within which such are by law required to be performed; transmit to the register of deeds of the proper county, a statement of the sum claimed by the state from such delinquent officer, with directions to such register of deeds to proceed against such delinquent officer, and his securities in the manner prescribed by law: *provided*, that when the auditor of state shall be satisfied that such default results from some inevitable accident, and not from the negligence of such officer, he may at his discretion postpone the instructions for bringing suit for any time not exceeding sixty days.

Failure of county treasurer to report or pay a tax; duty of auditor.

(43.) SEC. XXV. The auditor is authorized to administer an oath to accountants and witnesses, in support of the justice of such accounts as may be exhibited to him for liquidation, and to certify the same accordingly.

Authorized to administer oaths.

(44.) SEC. XXVI. No claim draft, or warrant from the governor or any one else, except the certificates, for the services of members and officers of the legislature, shall be paid by the treasurer until such claim, draft, or warrant shall have been entered in the auditor's office.

Claims to be audited before payment by treasurer.

(45.) SEC. XXVII. The salary of the chief clerk in the auditor of state's office, shall be eight hundred dollars per annum, payable annually, and the sum of five hundred dollars is hereby appropriated annually for contingent expenses of said office, and the payment of extra clerk.

Salary of chief clerk; contingent expenses.

(46.) SEC. XXVIII. Any auditor of state or other officer, who shall violate any of the provisions of this act, shall be liable, on conviction thereof before some competent court, to be punished by imprisonment in the state prison for a period of not less than one year or more than ten years.

Violation of provisions of this chapter.

(47.) SEC. XXIX. This act shall take effect immediately.

Take effect.

TREASURER OF STATE.

An Act providing for the Election and prescribing the Duties of Treasurer of State.

[Passed August 12, 1858.] *65*

*amended 1860 ch. 65 238.*

(48.) SEC. I. *Be it enacted by the legislature of the state of Minnesota:* That the qualified voters of the state shall elect a treasurer of state every two years, who shall continue in office until his successor is duly elected and qualified; and he shall receive an annual salary of one thousand dollars per annum payable quarterly.

Treasurer; election every two years.

(49.) SEC. II. The treasurer of state shall keep his office at the cap-

Office to be at capital of state.

ital of the state; shall have charge of, and safely keep all public moneys which shall be paid into the treasury, and pay out the same as directed by law, and perform all such other duties as now are or shall hereafter be required of him by the laws of this state.

Bond and oath of office.

(50.) SEC. III. The present treasurer shall at once give bond, with five or more securities to be approved by the governor, in the sum of one 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 an oath, or affirmation, faithfully to discharge the duties of his office; which bond, and oath or affirmation, shall be deposited with the secretary of state.

Successors to give bond.

(51.) SEC. IV. The successors in office of the first treasurer of state shall, before entering upon their duties, give bond and do every other act as provided for in the preceding section.

Additional security.

(52.) SEC. V. The legislature may, at any time during the continuance in office of the treasurer, require him to give such additional security as they shall deem necessary for the complete security of the state.

Duties of treasurer.

(53.) SEC. VI. 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, in which he shall specify the names of persons from whom received, or to whom paid, on what account the same is received, or to whom paid; on what account the same is received or paid out, and the time of such receipt or payment.

State orders; redemption.

(54.) SEC. VII. The treasurer shall receive in payment of public dues the bills drawn by the auditor of the state, in conformity with the laws of the state, or redeem the same, if there be money in the treasury appropriated for that purpose, and on redeeming such bill, or receiving the same in payment, he shall cause the person presenting such bill to endorse the same; and the treasurer shall write on the face of such bill, "redeemed," and shall enter in his book, in separate columns, the number of such bill, its date, amount, the name of the person to whom payable, the date of payment, and the amount of interest, if any, paid thereon.

Endorsement on orders when there are no funds for redemption; interest.

(55.) SEC. VIII. That when any bill shall be presented to the treasury for redemption, and there shall be no funds therein appropriated for that purpose, the treasurer of state shall endorse thereon the date of its presentation, with his signature thereto, and whenever there shall be funds in the treasury for the redemption of bills so presented and endorsed, the treasurer shall give notice of the fact in some newspaper published at the seat of government, and at the expiration of thirty days after the date of such notice, the interest on such bill shall cease.

Deposit of paid orders with the auditor.

(56.) SEC. IX. The treasurer shall, on the first Monday of March, June, September and November, annually, deposit in the office of the auditor of state, all bills by him redeemed or received in payment at the treasury, and take the auditor's receipt therefor.

Annual report to legislature.

(57.) SEC. X. The treasurer shall annually 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 the funds, exhibiting the amount by him received, the amount paid out during the preceding year, and the balance remaining in the treasury.

Books subject to inspection.

(58.) SEC. XI. The treasurer shall, as often as required, submit his books, accounts, vouchers, and the funds in the treasury, to the inspection of the legislature or any committee thereof appointed for that purpose.

Prohibition to treasurer.

(59.) SEC. XII. The treasurer shall in no case purchase or receive any bill 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.

(60.) SEC. XIII. If the person elected treasurer shall fail to give bond and security as provided in this act, the governor shall appoint some person in his place, who shall give bond and security, as before provided in this act, and said person so appointed shall hold his office until the next meeting of the legislature, or until his successor is duly elected and qualified.

Failure to give bond, governor to appoint.

(61.) SEC. XIV. The treasurer shall attend at his office between the hours of nine and twelve, and between two and five o'clock, every day in the year, (Sundays, the fourth of July, thanksgiving day and Christmas, excepted,) and the twenty-second of February, also the first of January.

Office hours.

(62.) SEC. XV. If, in any instance, the treasurer shall neglect to call to account, as directed by law, any delinquents, whereby the public revenue may suffer loss, he shall be held and deemed accountable for the sums due by such delinquents, to all intents and purposes, as if the same had actually been paid into his office.

Delinquent officers, treasurer to call to account.

(63.) SEC. XVI. If at any time it shall appear from the accounts of the treasurer, the auditor, or in any other way, that the treasurer has not accounted for and paid over the public moneys of the state as directed by law, the state may move for and obtain judgment against the treasurer and his sureties, in any court of record, first giving to the persons against whom such motion shall be made, five days' notice of the time and place, when and where such motion will be made, and said treasurer shall be liable to a criminal action, and upon conviction shall be punished by imprisonment at hard labor for a term not less than five nor more than twenty years.

Defalcation of treasurer; penalty.

(64.) SEC. XVII. If any treasurer, or other person indebted to the state, shall become 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.

Insolvency of parties indebted to state.

(65.) SEC. XVIII. The treasurer shall procure a seal of office with such devices thereon as the treasurer and governor deem most suitable.

Treasury seal.

(66.) SEC. XIX. All moneys that may be due the treasury, and which shall be paid to the treasurer on that account, shall be either gold or silver, or ~~current bank notes of the banks of the state of Minnesota.~~

Gold and silver coin to be paid into treasury.

(67.) SEC. XX. This act shall take effect immediately after its passage.

Act to take effect. *as amended by ch. 65, 1861.*

ATTORNEY GENERAL.

An Act to prescribe the duties of Attorney General.

[Passed July 28, 1858.] c, 68

(68.) SEC. I. *Be it enacted by the legislature of the state of Minnesota:* That each attorney general elect, before entering upon the performance of his duties, shall take an oath or affirmation before the supreme court, or some judge thereof, to support the constitution of the United States, and the constitution of the state of Minnesota, and faithfully to discharge the duties of his office, and shall also give a bond to the state in the sum of five thousand dollars, with two or more sureties, to be approved by the governor, conditioned, that he will faithfully discharge his duties as aforesaid, and truly pay into the treasury of state, all public moneys which may come into his hands.

Oath of office and bond.

(69.) SEC. II. That a certificate of the oath or affirmation so taken shall be filed, together with the bond, in the office of the secretary of state, and a record of the same shall be made and kept in the said secretary's office.

Certificate of oath and bond to be filed.

To appear for state before supreme court.

(70.) SEC. III. The attorney general shall appear for the state in the trial and argument of all causes in the supreme court, (whether of a civil, equitable or criminal description,) wherein the state may be directly interested.

Appearance for state before other courts.

(71.) SEC. IV. That he shall, when required by the governor or legislature, appear for the state in any court or tribunal, in any cause to which the state may be a party or in which the state may be directly interested.

Prosecution of parties for offenses

(72.) SEC. V. That he shall, upon the written request of the governor, prosecute any person who may be charged with any indictable offense whatever.

Prosecution of official bonds of delinquent officers.

(73.) SEC. VI. He shall cause to be prosecuted the official bonds of all delinquent officers in which the state may be interested, when the same are directed to be put in suit.

Prosecution of assessors and tax collectors for delinquency.

(74.) SEC. VII. He shall cause to be prosecuted all assessors and other officers connected with the revenue laws of this state, for all such delinquencies and offenses against those laws as may come to his knowledge. Said suits to be brought in the district court of the county in which the defendant or any one or more of the defendants may reside or be found.

Prosecutions against incorporated companies for violation of charter.

(75.) SEC. VIII. That if it shall come to his knowledge that any incorporated company has offended against the laws of the state, misused its incorporated authority or any of its franchises or privileges not conferred or surrendered, abandoned or forfeited its incorporated authority or any of its franchises or privileges, he shall cause proceedings to be instituted against it.

Institution of proceedings.

(76.) SEC. IX. Said prosecutions may be instituted in the supreme court of the state, or in the district court of any county wherein such company may have a place of business, or such officer or officers, person or persons reside or may be found.

Legal advice to state officers.

(77.) SEC. X. That he shall, when required, give legal advice to the governor, the secretary of state, the auditor of state, the treasurer of state, warden and directors of the penitentiary, and superintendent and directors of benevolent institutions and common schools, in all matters relating to their official business.

Written opinions to legislature.

(78.) SEC. XI. He shall also give his written opinion upon any question of law, to either house of the legislature, when required.

To advise district attorneys.

(79.) SEC. XII. He shall advise the district attorneys of the state, when requested by them, in all matters appertaining to the duties of their offices.

To prepare forms of contracts, &c.

(80.) SEC. XIII. He shall prepare suitable forms of contracts, obligations and other like instruments of writing for the use of the officers of the state, when requested by the governor, secretary, auditor or treasurer of state.

Service of writs; fees to sheriff.

(81.) SEC. XIV. That in all cases brought under the provisions of this act, the writ or writs may be sent to the sheriff of any county by mail, and returned by him in like manner, for which the sheriff shall be allowed the same mileage and fees as if the writ or writs had issued out of the district court of his own county and been returnable thereto.

Appeals; no security from state.

(82.) SEC. XV. That upon all appeals taken or sued out by the attorney general upon behalf of the state, or any of its officers, no security shall be required.

Office of attorney general to be at capital.

(83.) SEC. XVI. That the attorney general shall keep his office at the seat of government, to be provided and furnished at the state's expense, and the accounts for postage upon his official correspondence shall be audited and allowed by the auditor of state, and paid out of any funds in the state treasury not otherwise appropriated.

Official register.

(84.) SEC. XVII. That he shall keep, in a book to be provided for that purpose, at the state's expense, a register of all actions, demands, com-

plaints, writs, informations, and other suits 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 book he shall deliver to his successor at the expiration of his term.

(85.) SEC. XVIII. This act shall take effect on its passage.

Take effect.

CLERK OF THE SUPREME COURT.

An Act to prescribe the qualifications and duties of the Clerk of the Supreme Court.

[Passed March 20, 1858] c. 9

(86.) SEC. I. *Be it enacted by the legislature of the state of Minnesota:* The clerk of the supreme court, before he shall enter upon the duties of his office, shall take and subscribe an oath to support the constitution of the United States, and the constitution of the state of Minnesota, and to faithfully discharge the duties of his said office to the best of his ability, and shall execute a bond to the governor of the state, to be approved by him, in the penal sum of one thousand dollars, conditioned for the faithful performance of his said duties, which bond shall be for the use of the state, and filed in the office of the secretary of state.

Oath of office.

Bond.

(87.) SEC. II. The said clerk of the supreme court may appoint such deputy or deputies as he may choose, who shall take and subscribe a similar oath or oaths prescribed for the said clerk, which oath or oaths shall be filed in said court, and the said clerk shall be responsible for the acts of his deputy or deputies: *provided*, that the said clerk may at any time remove any deputy appointed by him under the provisions of this act.

May appoint deputy.

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

Records, stationery, &c.

(89.) SEC. IV. It shall be the duty of the clerk of the supreme court to perform all the duties which are or may be assigned him by law and by the rules of the said court, made in pursuance of the statute in such case made and provided. And in the absence of the said clerk from the office or the court any deputy appointed under the provisions of this act, may perform all the duties of the said office.

Subject to rules of the supreme court.

(90.) SEC. V. This act shall take effect from and after its passage.

Take effect.

NOTARIES PUBLIC.

An Act providing for the Appointment of Notaries Public and prescribing their Duties.

[Passed July 26, 1858.] c. 27

(91.) SEC. I. *Be it enacted by the legislature of the state of Minnesota:* That the governor be and is hereby authorized to appoint and commission as notaries public, by and with the advice and consent of the senate, as many citizens of this state, having the qualifications of electors, residing in the several counties of this state, as he may deem necessary.

Who may be appointed notaries.

(92.) SEC. II. That each notary public, so appointed and commissioned, shall hold his office for the term of two years, unless sooner removed by the governor or the district court: and that before entering upon the duties of his office, he shall give a bond to the state of Minnesota, in the sum of one thousand dollars, with security, to be approved by the governor, conditioned for the faithful discharge of the duties of his office, and he shall take and subscribe an oath or affirmation, to be endorsed on his

Term of office.

Bond and oath of office.

bond, that he will support the constitution of the United States, and of this state, and that he will honestly, faithfully and impartially discharge and perform all the duties of his office to the best of his ability, and the same shall be deposited in the office of the secretary of state.

Official seal ;  
form of.

(93.) SEC. III. That each notary public, before entering upon the duties of his office, shall provide himself with an official seal, with which he shall authenticate his official acts, upon which shall be engraved the arms of this state, the words "notarial seal," and the name of the county [in] which he resides, which seal, together with his official register, shall be exempt from execution; and on the death or removal from office of such notary public, his register shall be deposited in the office of the clerk of the district court of the county in which such notary resides: *provided*, that it shall be lawful for any notary public, already duly commissioned and qualified as such, to use, in the authentication of his official acts, a seal of the similitude of those authorized by law previous to the passage of this act: *and provided further*, that whenever it shall be necessary for any such notary public to procure a new seal, such new seal shall be of the description hereinbefore designated.

Powers of notaries.

(94.) SEC. IV. That each notary public so appointed, commissioned and qualified, shall have power within this state, while residing within the county for which he was appointed, to administer all oaths required or authorized by law to be administered in this state, to take and certify depositions to be used in any of the courts of this state, to take and certify to all acknowledgments of deeds, mortgages, lien, powers of attorney, and other instruments of writing, and to receive, make out and record notarial protests.

Form of protesting notes.

(95.) SEC. V. It shall be the duty of each and every notary public, when any bill of exchange or promissory note be by him protested for non-acceptance or non-payment, to give notice thereof in writing, to each party protested against, immediately after such protest shall have been made; and the notary shall in such instrument of protest, certify to the time and manner of the service of such notice upon the several parties so protested against; and the notary shall make record of such instrument of protest in his official register, which record, or a duly certified copy thereof, shall be *prima facie* evidence of the facts therein contained.

Instruments of protests to be received as *prima facie* evidence.

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

Fees for protests.

(97.) SEC. VII. That for each oath or affirmation administered and certified, the notary public shall receive twenty-five cents, and no more; for the presentment, demand, notice to drawers and endorsers, and instrument of protest of each bill of exchange or promissory note, he shall receive the sum of one dollar; and for reording each instrument required by law to be recorded by him, ten cents for each one hundred words, and no more; for taking and certifying acknowledgments of deeds, mortgages, liens, powers of attorney, and other instruments of writing, and for the taking and certifying depositions, he shall receive the same fees as may be allowed by law to justices of the peace for similar services; and in taking depositions, he shall have the same power to compel the attendance of witnesses, and punish witnesses for refusing to testify, which may be vested by law, in justices of the peace; and all sheriffs and constables, and

Fees for recording other instruments, &c.

Power to compel attendance of witnesses.

sheriffs in this state, are hereby required to serve and return all process issued by such notaries in taking depositions.

(98.) SEC. VIII. That no banker, broker, or officer, stockholder, attorney, clerk, or agent of any bank, banker or broker, shall be appointed to or shall hold the office of notary public in this state.

*amended 1865*  
*ch. 68*  
No banker or other person connected therewith to be appointed.

(99.) SEC. IX. That any notary public who shall charge or receive any fee or reward for any act or service done or rendered by him under this act, greater than the amount herein limited, or who shall dishonestly or unfaithfully discharge any of his duties as notary public, shall on complaint filed and substantiated in like manner as other cases, in the district court of the county in which he resides, be removed from his said office by such court; and the court shall thereupon certify the fact of such removal to the governor, and the party so removed shall be thereafter ineligible to a reappointment to the office of notary public in this state.

Overcharging fees or malfeasance in office subject to removal from office.

(100.) SEC. X. The term of office for all notaries public appointed prior to the twenty-fifth day of May, A. D. 1858, shall expire on the thirty-first day of July, A. D. 1858.

Previous commissions to expire.

(101.) SEC. XI. That article six of chapter four of the revised statutes, and all amendments thereto, and all acts and parts of acts inconsistent with this act, be and are hereby repealed.

Repeal of article 6, chapter 4, revised statutes.

(102.) SEC. XII. This act shall take effect and be in force from and after its passage.

Act to take effect.

SUPERINTENDENT OF COMMON SCHOOLS.

Defining the Duties of Superintendent of Common Schools.

✓ [Article 4, Chapter 4, Revised Statutes.]

(103.) SEC. I. There shall be a superintendent of common schools appointed by the governor, with the advice and consent of the council, who shall hold his office for the term of two years, and whose duty it shall be to prepare and submit an annual report to the legislature, containing:

*amended*  
Superintendent of common schools, how appointed.  
*ch. 101*  
*1865*  
To make report.

1. A statement of the condition of the common schools of the territory.
2. Estimates on accounts of expenditures of the school moneys.
3. Plans for the improvement, management, and better organization of common schools.
4. All such matters relating to his office, and to the common schools as he shall deem expedient to communicate.

(104.) SEC. II. It shall be the duty of the superintendent of common schools to introduce and recommend to the schools, such text-books as he shall deem best adapted to their wants, and to visit as many schools as practicable within the organized counties of the territory.

Duties of superintendent of common schools.

(105.) SEC. III. [As amended by laws of 1856, page 9:] The said superintendent of common schools shall receive an annual salary of five hundred dollars, payable semi-annually, out of the treasury of this territory.

Salary of superintendent of common schools.

SEC 13 & Chap 46 1860

LIBRARIAN.

An Act providing for the appointment of Librarian and for other purposes.

✓ [Passed February 25, 1851.]  
*Amended by ch. 42 1865*

(106.) SEC. I. *Be it enacted by the legislative assembly of the territory of Minnesota:* The governor shall nominate, and by and with the advice and consent of the council, shall appoint a librarian, who shall continue in office one year, and until his successor is appointed and qualified; who shall have the custody, charge, safe keeping, management and direction of

Governor to appoint with consent of council.

all books, papers, maps, charts, engravings, paintings, and all other things, of what nature soever, properly belonging to the library of the territory.

Bond and oath; bond to be filed with the secretary.

(107.) SEC. II. Before entering upon the duties of his office, said librarian shall execute a bond to the secretary of the territory, with three or more sufficient sureties, in the penal sum of six thousand dollars, which bond shall be approved in writing by the governor of the territory, conditioned for the faithful performance of the duties of his office; and he shall also take and subscribe an oath or affirmation, before one of the justices of the supreme court or clerk of the district court, to support the constitution of the United States, and the provisions of the law organizing the territory of Minnesota, and faithfully and impartially to perform the duties of his office according to law, to the best of his abilities; which oath shall be endorsed and certified on the back of said bond, and shall be filed in the office of the secretary of the territory.

Safe keeping and insurance of library.

(108.) SEC. III. It shall be the duty of the librarian to provide a suitable and convenient room at the seat of government, for the safe keeping of the territorial library, and all things belonging or appertaining thereto, and provide proper shelves for the arrangement thereof, in such manner as to be easy and convenient of access, and it shall further be the duty of the librarian to procure the insurance of the library and all other property in his charge against damage or loss by fire.

Those privileged to use the library and conditions.

(109.) SEC. IV. The members of the council and house of representatives, and their officers, the governor of the territory, the judges of the supreme court, members of the bar during the sitting of the supreme and district courts, the secretary of the territory, the United States attorney of the territory, the attorney general and marshal of the territory, the delegate in congress, and the clerk of the supreme court, ministers of the gospel, ex-members and officers of the legislature and ex-librarian, may have free access to the library during the regular hours of the day, and may take any work therefrom, and keep the same in their possession, not exceeding six days, except as herein otherwise provided for; and any person or persons who shall retain any work or book in his or their possession for a longer period than is provided for in this act, shall pay twenty-five cents for each volume, for every day so retained, and all persons refusing to pay their fines, will be debarred the privilege of the library until said fines are paid; *provided*, that works of a miscellaneous character, may be kept for a period of thirty days.

Law and miscellaneous books how taken out.

(110.) SEC. V. No person shall take more than one volume of the laws from the library at any one time, and shall not retain the same for a longer period than two days except during the terms of courts, or the legislature; nor take more than five volumes of a miscellaneous character; and no book shall be removed from the library, without being receipted for to the librarian, or upon the written order of some person entitled to the privileges of the library.

Penalties for damage.

(111.) SEC. VI. If any person injure, or fail to return any book, map, or other work, for more than two months, he shall forfeit and pay to the librarian for the benefit of the library, three times the value thereof or of the set to which it belongs.

Citizens or strangers, how introduced.

(112.) SEC. VII. The persons privileged to remove books, &c., from the library, may introduce citizens or strangers into the library, who shall have the privilege, during all seasonable hours, of reading the books therein, not required for the use of any such privileged persons.

Library, when open.

(113.) SEC. VIII. [As amended by laws of 1856, page 17.] The library shall be kept open during the session of the legislature and of the supreme court, from the hour of nine o'clock A. M. until twelve o'clock M., and from two until nine o'clock P. M. All other times, on every

Wednesday and Saturday, during the ordinary business hours. The hours to be selected and notice thereof to be posted on the outside of the door of the library-room by the librarian.

(114.) SEC. IX. The librarian shall collect all books, charts, &c., into the library previous to the session of the legislature, and he shall report to the legislative assembly at the commencement of the session, a catalogue of the books and other property belonging to the library at the last report, and purchased or received into the library since; books, charts, &c., loaned and not returned, showing all moneys received for those lost, and, from whom, the sums due, and from whom, all articles purchased since last report, from whom and the cost, articles expended for the use of the library, and an estimate of articles necessary during the coming year.

Annual report; how made.

(115.) SEC. X. The librarian is hereby authorized and required to sue for in the name of the territory, for the use of the library, all penalties under the provisions of this act, and for all injuries done to the library or any property belonging or appertaining thereto; he shall purchase at the lowest price, all stationery, fuel, light, or other articles necessary for the use of the library, to be paid for out of the appropriations made for the expenses of the legislative assembly. All fines or penalties collected by the librarian, shall be subject to the order of the governor, and to be by him appropriated to the purchase of such books, charts, &c., as he may deem most proper.

Librarian authorized to sue for penalties under this act.

(116.) SEC. XI. The congressional copy of the "United States Exploring Expedition," "Heath's New Gallery of British Engravings," and all works of that character, shall not be taken out of the library.

Books not to be taken out.

(117.) SEC. XII. The governor may at any time remove the librarian from office for good cause, and whenever the office shall become vacant by death, resignation, removal, or otherwise, it shall be the duty of the governor to appoint some suitable person, who shall qualify as provided in the second section of this act, and who shall remain in office until the adjournment of the next session of the legislative assembly.

Librarian; how removed.

(118.) SEC. XIII. The governor may, at any time, make such regulations relative to the removal of books from the library, not inconsistent with the provisions of this act, as he may deem proper and expedient.

Removal of books from the library.

(119.) SEC. XIV. [As amended by act of March 4, 1852:] The territorial librarian shall receive for his services, at the rate of six hundred dollars per annum, to be paid quarter yearly by the secretary of the territory, out of the money appropriated by congress to defray the expenses of the legislative assembly.

An Act to amend the Revised Statutes.

✓ [Passed March 5, 1853.] c. 2

(120.) SEC. IX. All territorial officers who are required to render accounts to the legislative assembly, shall close their accounts on the 31st day of December, in each year, and shall render such accounts as soon after that day in each year as may be practicable.

Officers shall render accounts, when.