

*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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COMMISSIONERS.

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PUBLISHED BY STATE AUTHORITY.

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SAINT PAUL:  
THE PIONEER PRINTING COMPANY.

1859.

- (30.) SEC. XXX. If after the commencement of a suit, all the plaintiffs shall become insolvent or non-resident, and be discharged as aforesaid, or be sentenced to imprisonment in the penitentiary for any term less than life, the defendant may also require such security to be filed. When plaintiff required to file security for costs.
- (31.) SEC. XXXI. The order shall be to file such security, and that all proceedings on the part of the plaintiff, be stayed until such security be filed, and the sureties shall justify if excepted to. Such order may be made by the court in which the action is pending, or by any judge thereof, in vacation, upon due proof by affidavit, of the facts entitling the defendant thereto. Order to file security for costs, what to contain.
- (32.) SEC. XXXII. Such security shall be given in the form of a bond in the penalty of at least one hundred dollars, with one or more sufficient sureties, to the defendant, conditioned to pay, on demand, all costs that may be awarded to the defendant in such action. Bond for security for costs.
- (33.) SEC. XXXIII. Such bond shall be filed with the clerk of the court in which the action is pending, and notice thereof be given to the defendant or his attorney. Bond how to be filed.
- (34.) SEC. XXXIV. Within twenty days after the service of such notice the defendant may except to the sufficiency of the sureties by giving notice of such exception to the plaintiff's attorney. Defendant may except to sufficiency of surety.
- (35.) SEC. XXXV. Within twenty days after such notice of exception the sureties shall justify by affidavit, that they are worth double the penalty of such bond over and above all debts, of which affidavit a copy shall be served on the defendant or his attorney, and such justification shall operate to discharge the order to stay proceedings. When sureties may justify.
- (36.) SEC. XXXVI. In the cases in which, according to the provisions of this chapter, a defendant at the commencement of an action, shall be entitled to require security for costs, the attorney for the plaintiff shall be liable for such costs, to an amount not exceeding one hundred dollars, until security therefor be filed as herein provided, whether such security shall have been required by the defendant or not. Attorneys when liable for costs.
- (37.) SEC. XXXVII. Such attorney may relieve himself from such liability by filing security as herein provided without being required to do so by the defendant, and by giving notice thereof to such defendant, or his attorney. How attorney may relieve himself from liability.

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FEES OF CERTAIN OFFICERS.

[Chapter 73, Revised Statutes.]

Allowance of fees.

(1.) SEC. I. For the services mentioned in this chapter, hereafter done or performed in the several courts in this territory, by the officers thereof, or in any proceedings authorized by law, the fees hereinafter prescribed, shall be allowed.

*1/3 in day for attorney court Chap 28 1877 1864*

FEES OF CLERKS OF THE DISTRICT COURTS.

Fees of clerk of the district court.

(2.) SEC. II. [As amended by laws of 1854, <sup>1331</sup> pages 49 and 50.] The fees of the clerks of the district courts for any services herein specified, to be rendered by them, shall be as follows :

For issuing and sealing every writ when filled up by the clerk, seventy-five cents; and each exemplification or certificate when required, twenty-five cents.

Entering the return of every writ, and filing such writ, fifteen cents for each folio.

Entering an appearance, retraxit, discontinuance, nonsuit or default, fifteen cents.

Entering every rule in term, founded on motion, fifteen cents for each folio.

Entering every other rule or order, fifteen cents for each folio.

For certified copies of rules, the same fees as for entering such rules.

Every report upon an assessment of damages, or other matter referred to him, fifty cents.

Every certificate, twenty-five cents, but not to be allowed for certifying any paper to be a copy, for the copying of which he shall be paid.

Calling and swearing a jury, fifty cents.

Swearing each witness on trial, ten cents; and swearing every constable to take charge of a jury, twelve cents.

Entering every recognizance, fifty cents.

Entering every cause in a calendar for the court, and making a copy thereof for the bar, ten cents.

Receiving and entering a verdict, twenty cents.

Entering every cause or suit without process, fifty cents.

Certified copy of the minutes of a trial when required, fifty cents.

Entering every final judgment, fifty cents.

Entering satisfaction of a judgment, fifteen cents for each judgment debtor.

Drawing a special jury in any cause, fifty cents.

*See Chap. 64, 127, 1865*

Attendance in striking a special jury, certifying the names selected, and delivering such certificate to each party, fifty cents.

Reading and filing a habeas corpus, certiorari, or writ of error, fifteen cents.

For a subpoena, summons or execution, when issued by a clerk, on request, and sealing the same, fifty cents.

Filing a complaint or other pleading, an affidavit, or other papers or proceedings, ten cents; all papers annexed together and filed at the same time, to be considered as one paper, and no allowance to be made for reading any paper or proceeding in any case.

Copies and exemplifications of records and of pleadings, to be returned on certiorari or writ of error; copies and exemplifications of all records, pleadings, and proceedings furnished on request, when no special provision is otherwise made, ten cents for each folio.

Searching the records or files in his office, if a copy is not required, twenty cents for the records or files of each year, except for officers of the court.

Receiving and filing the papers of any insolvent, ten cents for each paper filed.

Copies of such papers, ten cents for each folio.

For administering the oath of office to any officer, and certifying the same, twenty-five cents.

Recording credentials of ordination of ministers, and giving certificate of the same, one dollar.

Recording certificate of the solemnization of marriage, fifty cents.

Entering transcript of justices' judgment, ten cents for each folio.

Entering appeal from justices' court, fifty cents.

For each blank writ furnished attorneys, with seal for the same, fifteen cents.

Entering a surrender of bail, fifteen cents.

Issuing commission to take deposition, one dollar.

Issuing venire facias, seventy-five cents.

Certificate of jurors' or constables' attendance at court, to be paid from the county treasury, each ten cents.

Entering forfeiture of recognizance, fifteen cents.

Entering discharge of bail, twenty cents.

For entering a declaration to become a citizen of the United States, twenty-five cents.

For a certified copy of such declaration, under the seal of the court, fifty cents.

For entering the final admission of an alien to the rights of citizenship, twenty-five cents.

For a certified copy thereof, under the seal of the court, fifty cents.

For all services required by law, to be performed by such clerk respectively, and not specially provided for by law, such fees as the supreme court shall, by general rule or order prescribe, corresponding as near as may be, with the rates herein prescribed.

*And be it further enacted:* that the fees of the clerks of district courts for making docket entries of judgments shall be fifteen cents for each judgment debtor.

Filing and docketing a transcript of judgment docket from any other county, the same fees as for docketing those originally in his own county.

Attendance on court for each day of actual session to be paid from the county treasury, five dollars.

For docketing, entering the return of, and filing execution, fifty cents.

*amended 1860 Chap 28 p 184 & amended  
 present schedule 1864 Chap 29 p 78*

Fees of clerks of  
 district courts;  
 amended.

FEES OF THE CLERK OF THE SUPREME COURT.

Fees of clerk of the supreme court.

(3.) SEC. III. [*As amended by laws of 1854, <sup>81352</sup> pages 49 and 50.*] For drawing a writ of error, or other process issued under seal of the court, one dollar.

For affixing the seal to any process of the court, twenty-five cents.

For filing the papers sent at one time from a district court, ten cents for each paper.

Reading and filing any petition relating to any proceeding in court, ten cents.

Entering the appearance or default of appellant, or plaintiff, or of defendant, or correspondent, fifteen cents.

Entering every rule or order, fifteen cents for each folio.

For a certified copy of every such rule or order, and all papers, pleadings, and proceedings filed with him, ten cents for each folio.

Entering every decree or sentence, ten cents for each folio.

Entering every judgment or order, fifteen cents for every judgment debtor; ten cents for each folio more than two.

Engrossing every remitter to be sent to a district court, ten cents for each folio.

Every certificate given on request, relative to any matter or cause, twenty-five cents.

Taxing costs, fifty cents.

Entering every satisfaction on the record, fifteen cents.

Taking security in cases authorized by law, fifty cents.

Entering each cause in the calendar, and making copy for the bar, ten cents.

For searching records and files in his office, except for suitors and their attorneys, twenty cents for the records or files of each year.

For services required by law, or the rules of the court not herein provided for, such fees as the court shall direct.

Entering causes without process, fifty cents.

Admission of attorneys, one dollar.

FEES OF COMMISSIONERS TO TAKE TESTIMONY.

Fees of commissioners to take testimony.

(4.) SEC. IV. The person to whom any commission shall be issued to take testimony in any cause or matter pending in law or chancery, shall be entitled to receive the same fees as allowed to justices of the peace for the same services.

FEES OF JUDGES OF PROBATE.

Fees of judges of probate.

(5.) SEC. V. [*As amended by laws of 1856, <sup>65516</sup> pages 11 and 12.*] For granting letters of administration, when not contested or approved, three dollars.

When contested, five dollars.

Hearing any complaint, petition, or action, two dollars.

Hearing any application for the appointment of a guardian, two dollars.

Appointing a guardian, one dollar.

And when one guardian shall be appointed for more than one person at the same time, fifty cents for each person after the first for whom such guardian shall be appointed.

Decree of probate of a will, when not contested, two dollars.

When contested, five dollars.

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- Decree for settling an estate, two dollars.
- Partition of real estate, two dollars and fifty cents.
- Warrant to appraise and divide an estate, one dollar and fifty cents.
- Issuing a commission to examine and allow claims against an estate, one dollar and fifty cents.
- Ordering an allowance to widows, or children under seven years of age, one dollar and fifty cents.
- Approving securities of executors or others, one dollar.
- Appointment of agent on petition of real estate, one dollar and fifty cents.
- Each order for sale of real estate to pay debts of an estate, two dollars.
- Each order for sale of personal estate, one dollar.
- Order for publication of any notice, or any ordinary order in proceeding before him, fifty cents.
- Granting reference of accounts of executors or administrators, or allowing report thereon, one dollar.
- Disallowing application for letters of administration or probate of will to be paid by the party applying, two dollars.
- For a warrant to set off dower, one dollar.
- Proportioning an insolvent estate among the creditors, two dollars.
- Order for distribution, one dollar and fifty cents.
- Extending time for settling an estate, fifty cents.
- Examining and allowing claims against an estate, fifty cents.
- Ordering and drawing a quietus, one dollar.
- For all services required by law to be performed by judges of probate, for which a compensation is not herein provided, such fees as shall from time to time be established by the supreme court by general rules, corresponding as near as may be with the rates herein specified: *provided*, that the amount of fees taxed by any judge of probate, in his own behalf in any case not contested, shall in no case exceed twenty-five dollars; unless the same be audited and certified to be just by any judge of the district court of the county.
- Examining and allowing an inventory, fifteen cents for each folio.
- Administering an oath to an executor or other person, and certifying the same when necessary, fifteen cents.
- Examining and allowing accounts of executors, administrators, or other persons, for the first page, fifteen cents, and for each additional page, five cents.
- For each citation, summons, or other process, twenty-five cents.
- Approving and filing a bond given on an appeal, fifty cents.
- Each order to divide an estate among heirs, or to set off dower, twenty-five cents.
- Entering and filing a caveat, fifteen cents.
- Entering the accounts of an executor, administrator, or guardian, fifteen cents for each folio.
- Entering each oath of an executor, or administrator, fifteen cents.
- Searching the records or files in his office, for each year, fifteen cents.
- Recording wills and the proof thereof, letters of administration, of guardianship, and every other matter required to be recorded, for each folio, fifteen cents; and where any will or other matter is in any other than the English language, eighteen cents for each folio.
- For a translation of any will from any other than the English language, twenty-five cents for each folio.
- Copies and exemplifications of the probate of a will, or of letters testamentary, or of administration, or of any other proceeding or order had or made before him, or of any other papers filed or recorded in his office,

transmitted, on appeal, or furnished on request to any person, fifteen cents for each folio.

FEEES OF EXECUTORS AND ADMINISTRATORS.

Fees of executors and administrators.

(6.) SEC. VI. For actual services, and in lieu of all other fees, one dollar per day, and fifty cents for each half day, and their actual and necessary disbursements for the benefit of the estate; but the probate court may allow executors and administrators, in cases of unusual difficulty or responsibility, such further sum as the judge may deem reasonable.

FEEES OF WITNESSES.

Fees of witnesses.

(7.) SEC. VII. For attending in any suit or proceeding pending in a court of record, one dollar for each day, and fifty cents for each half day.

For attending in any justice's court, or before any officer, person, or board authorized to take the examination of witnesses, one dollar for each day, and fifty cents for each half day.

For traveling, at the rate of six cents per mile in coming to the place of attendance, to be estimated from the residence of such witness, if within this territory, or from the boundary line of this territory, which such witness passed in coming, if his residence be out of the territory.

The secretary of the territory, treasurer, attorney general, and clerk, register of deeds, county surveyor, or judge of probate, attending on a subpoena, requiring the same, with bills, records, or other written evidence, shall be entitled to one dollar per day, and for traveling, at the rate of six cents per mile, coming and returning from the residence of such witness.

FEEES OF SHERIFF IN EXECUTING PROCESS ISSUED OUT OF THE COURTS OF LAW AND EQUITY, AND BY JUDICIAL AND OTHER OFFICERS, AND FOR OTHER SERVICES.

Fees of sheriffs &c.

(8.) SEC. VIII. [As amended on page 33 of amendments of 1852 to the revised statutes.] For serving a summons, replevin, or any process issued by a court of law, or a subpoena to appear and answer in chancery, one dollar, when service is made on one defendant only, and for the service on each additional, fifty cents.

For traveling in making such service, ten cents per mile for going only, to be computed in all cases from the court house of the county in which the service is made, or from the place where the court has usually been held therein.

Section eight of chapter seventy-three, page 379, is so amended as to allow the sheriff to charge ten cents per mile, both going to and returning from the place of service.

For taking a bond of plaintiff in replevin, or taking a bond on the arrest of a defendant, or in any other case where he is authorized to take the same, fifty cents.

For a certified copy of such bond when requested, twenty-five cents.

For a note of every capias delivered to a defendant, on request, ten cents.

For a copy of every summons or complaint, served by him when made by the sheriff, ten cents for each folio.

For a copy of every other writ when demanded, or required by law, fifteen cents.

For serving an attachment for the payment of money, or an execution

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for the payment of money, or a warrant issued for the same purpose, and delivered to him by the county treasurer or any county commissioner for collecting the sum of two hundred and fifty dollars or less, four per cent., and for any sum more than two hundred and fifty dollars, two per cent.; advertising goods or chattels, lands or tenements, for sale on any execution, if a sale be made, one dollar, and if the execution be stayed or settled after advertising and before sale, fifty cents.

The fees allowed by law, and paid to any printer by such sheriff, for publishing an advertisement, of the sale of real estate, for not more than six weeks, and for publishing the postponement of any such sale shall be paid by the party requiring the same.

The fees herein allowed for the service of an execution and for advertising thereon, shall be collected by virtue of such execution, in the same manner, as the sum therein directed to be levied; but when there shall be several executions against the defendant at the time of advertising his property, in the hands of the same sheriff, there shall be but one advertising fee charged on the whole, and the sheriff shall elect on which execution he will receive the same.

For every certificate, on the sale of real estate, fifty cents; and for each copy thereof, twenty-five cents; which, together with the register's fee for filing the same, shall be collected as other fees on execution.

For drawing and executing a deed pursuant to a sale of real estate, one dollar, to be paid by the grantee, in such deed.

Serving a writ of possession, or of restitution, putting any person entitled, into the possession of premises, and removing the occupant, one dollar; and the same compensation for traveling as is herein allowed on other writs.

Taking a bond for the liberties of the jail, fifty cents.

Summoning a jury upon a writ of inquiry, attending such jury, and making and returning the inquisition, one dollar and fifty cents.

Summoning a special jury, struck pursuant to an order of the court, and returning the panel, one dollar and twenty-five cents.

Summoning a jury pursuant to any precept or summons of any officer, in any special proceeding, seventy-five cents, and for attending such jury when required, fifty cents.

Bringing up a person upon a habeas corpus, to testify or answer in any court, one dollar; and for traveling, each mile from the jail, fifteen cents.

For attending any court with such prisoner, one dollar per day, besides actual necessary expenses.

Bringing up a person upon a habeas corpus, with the cause of his arrest, and detention, one dollar; and for traveling, fifteen cents, for each mile from the jail.

Attending before any officer with a prisoner, for the purpose of having him surrendered in exoneration of his bail, or attending to receive a prisoner so surrendered, who was not committed at the time, and receiving such prisoner into his custody, in either case, one dollar.

Attending a view when ordered by the court, one dollar and twenty-five cents per day, including the time occupied in going and returning.

Serving an attachment upon any ship, boat, or vessel in proceedings to enforce any lien thereon created by law, one dollar, with such additional compensation for his trouble and expenses in taking possession of and preserving the same, as the officer issuing the warrant shall certify to be reasonable.

For making and returning an inventory, and appraisal of property attached in any case, one dollar per day each to the appraisers, for each day actually employed, and fifty cents for each half day; and for drafting the



inventory, twenty-five cents for each folio; and for copying the same, six cents for each folio.

For selling any ship, boat or vessel, or the tackle, apparel and furniture thereof so attached, and for advertising such sale, the same fees as for sales on execution.

For giving notice of any general or special election to the inspectors of the different townships and wards in the county, twenty-five cents, for each copy of notice, and ten cents per mile traveling one way, and expenses of publishing such notice as required by law; such fees and expenses to be paid by the county, as other contingent expenses thereof.

For any services which may be rendered by a constable the same fees as are allowed by law for such services to a constable.

For attending the supreme court, one dollar and fifty cents each day, to be allowed by the auditor, on the certificate of the clerk, and paid out of the territorial treasury.

For summoning grand or petit jurors, to attend the district court, fifty cents per each juror summoned.

Serving a subpoena for witnesses, fifty cents for each witness summoned, and ten cents for each mile actually traveled in going only; but when two or more witnesses live in the same direction, traveling fee shall be charged only from the farthest.

Keeping and providing for a debtor in jail, in all cases where the debtor is unable to support himself, fifty cents for each day.

For mileage on every execution, five cents per mile for going only, to be computed from the court house of his county.

For selling lands on the foreclosure of a mortgage by advertisement and executing a deed to the purchaser, and for all services required on such sale, three dollars.

#### FEES OF CORONERS.

Fees of coroners. (9.) SEC. IX. For all services rendered by them, the same fees as are herein allowed to sheriffs for similar service.

For confining a sheriff in any house on civil process, fifty cents for each day, to be paid by such sheriff before he shall be entitled to be discharged from such confinement, unless otherwise ordered by the court.

#### FEES OF CONSTABLES.

Fees of constables. (10.) SEC. X. Constables may be allowed to receive the following fees:

For serving a warrant or other writ, not herein provided for, on each person named therein, twenty-five cents.

For a copy of every summons delivered on request, or left at the place of residence of defendant, fifteen cents.

For serving a subpoena or summons, on each party or name therein, fifteen cents.

For serving an attachment, fifty cents.

For each copy of an attachment, fifteen cents.

For each copy of inventory of property seized on attachment, fifteen cents.

For issuing summons on garnishee, fifty cents.

For copy of any affidavit or other paper not otherwise enumerated, per folio, ten cents

For posting up each notice, fifteen cents.

For each mile actually traveled to serve any process, to give or post up notice, ten cents. *10¢ each mile - 1863*

Committing to prison, fifty cents.

For summoning a jury, one dollar.

For writing a list of jurors, fifteen cents.

For attending on a jury, fifty cents.

On all sums made on execution and paid over, charged upon the defendant, five per cent.

For notifying a plaintiff of a service of warrant, or summons, or attachment, returnable in three days, twelve cents.

For serving every writ of replevin, fifty cents.

For summoning and swearing appraisers, and taking appraisement, fifty cents.

For taking and approving security in any case, twenty-five cents.

(11.) SEC. XI. When the services mentioned in the last section are performed by any other person, the same fees shall be allowed as constables are entitled to receive, and no more. When services of constable performed by another.

FEES OF NOTARIES PUBLIC.

(12.) SEC. XII. For drawing and copy of protest of the non-payment of a promissory note, or bill of exchange, or of the non-acceptance of such bill, one dollar, in the cases where by law, such protest is necessary, but in no other case. Fees of notaries public.

For drawing, and a copy of every other protest, fifty cents.

For drawing, copy, and serving every notice of non-payment of note or non-acceptance of a bill, fifty cents.

For drawing any affidavit or other paper or proceeding, for which provision is not herein made, twenty cents for each folio, and copying the same, six cents for each folio.

For taking the acknowledgment of deeds, and for other services authorized by law, the same fees as are allowed to other officers for similar services.

*To account for fees chas 31/2 75 1863*  
FEES OF JUSTICES OF THE PEACE.

(13.) SEC. XIII. Justices of the peace may be allowed to receive the following fees, and may tax the same in all cases where applicable: Fees of justices of the peace.

For a summons, warrant, or subpoena, twenty five cents.

For a venire for a jury, twenty-five cents.

For a warrant in a criminal case, twenty-five cents.

For taking a recognizance of bail, twenty-five cents.

For administering an oath, fifteen cents.

For certifying the same when administered out of court, fifteen cents.

For a writ of attachment, twenty-five cents.

For entering a judgment, twenty-five cents.

For every adjournment, fifteen cents.

For every bond, recognizance, or security directed by law to be taken and approved by the justice, twenty-five cents.

For swearing a jury, twenty-five cents.

For taking an examination, deposition, or confession, per folio, fifteen cents.

For copy of proceedings, or of any paper or examination, in any case when demanded, per folio, fifteen cents.

For entering a satisfaction of judgment, twenty-five cents.

- For entering amicable suit without process, twenty-five cents.  
 For a transcript of judgment, twenty-five cents.  
 For opening a judgment for rehearing, twenty-five cents.  
 For filing every paper required to be filed, five cents.  
 For issuing notice to take deposition, twenty-five cents.  
 For taking recognizance, certifying oath, or affidavit, and making return to an appeal, including travel, one dollar.  
 For making return to writ of certiorari, per folio, fifteen cents.  
 For a search warrant, twenty-five cents.  
 For every affidavit, or other paper drawn by the justice, for which no other allowance is made by law, per folio, fifteen cents.  
 For a commitment to jail, twenty-five cents.  
 For an order to bring up prisoner, twenty-five cents.  
 For an order to discharge prisoner, issued to jailor, twenty-five cents.  
 For discharging a prisoner after a hearing, on motion to discharge, fifteen cents.  
 For an execution, twenty-five cents.  
 For every other writ, not herein enumerated, twenty-five cents.  
 For taxing costs, fifteen cents.  
 For marrying and making return thereof, one dollar and fifty cents, and such other sum as may be allowed by the party making the application.  
 For holding an inquisition, in cases of forcible entry and detainer, in addition to other fees, one dollar.  
 For taking and certifying the acknowledgment of a deed, for each grantor named therein, twenty-five cents.  
 For traveling to perform any duty, when not otherwise provided for, and such travel is necessary, going, per mile, ten cents.

## PROVISIONS IN RELATION TO FEES IN JUSTICES' COURTS.

- Costs in civil actions before justices of the peace.** (14.) SEC. XIV. In all civil actions, unless otherwise provided, the party in whose favor judgment is given, shall recover costs, and the justices' courts may give or refuse costs on all motions, at their discretion, unless otherwise directed.
- Justices when to tax costs.** (15.) SEC. XV. At the time of entering a judgment for costs, in any case, the justice may proceed to tax the costs in such case, and no notice of such taxing need be given to the party against whom judgment is rendered.
- No fees for travel of witness allowed unless proof.** (16.) SEC. XVI. The justice shall allow no fees for the travel of witnesses unless the same be proved on the oath of some person qualified to testify in the cause.
- When fees allowed for serving subpoena, &c.** (17.) SEC. XVII. No fees shall be allowed for travel in serving a subpoena, unless the same be charged by a constable, or sheriff, or be proved by the oath of the person who served the same.
- Fees of but two witnesses allowed to prove one fact.** (18.) SEC. XVIII. The attendance of only two witnesses to each particular fact before a justice of the peace, shall be taxed in the bill of costs.
- When fees for copies &c., not allowed.** (19.) SEC. XIX. No fees for copies, or exemplifications of documents or papers, or for depositions, shall be allowed, unless such copies of depositions were used upon the trial.
- When allowance made for disbursements.** (20.) SEC. XX. No allowance for disbursements, except to officers, shall be allowed, unless the items are particularly specified, and proved to the justice, and the same were, in the opinion of the justice, necessary and reasonable in amount.
- Charge or ser-** (21.) SEC. XXI. The justice shall hear any evidence which may be

offered to him, to prove that any charge is unreasonable, or that the service has not been rendered. vice maybe disproved.

(22.) SEC. XXII. The return of a sheriff or constable, to any writ, shall be deemed prima facie evidence, that such return is correct, and that the service has been rendered, or disbursement made. Return of sheriff to be evidence.

(23.) SEC. XXIII. The justice shall have power, when he shall deem it necessary, to command any constable to attend at the trial of the cause, and shall make an entry thereof in his docket, and may tax in the bill of costs fifty cents for each half day such constable shall so attend by his command. Justice may require constable to attend trial.  
His fees.

FEES OF REGISTERS OF DEEDS.

(24.) SEC. XXIV. For entering and recording any deed or other instrument, twelve and a half cents for each folio, to be paid when the same is left for record. Fees of register of deeds.

For every certificate, twenty-five cents.

For copies of any records or papers, when required, seven cents for each folio.

For recording any deed or other paper, in any other than the English language, twenty cents for each folio.

For every entry of a discharge of a mortgage, in the margin of the record, ten cents.

For filing every other paper, and making an entry thereof, when necessary, six cents.

Searching for every such paper, on request, three cents for every paper examined.

For searching the record, ten cents.

FEES OF APPRAISERS, COMMISSIONERS, AND OTHERS.

(25.) SEC. XXV. All appraisers of estates of deceased persons, appraisers of property taken on writ of attachment or replevin, persons appointed under a legal process, or order for assigning dower, or making partition of real estate, sheriffs' aids in criminal cases, and all other private persons performing any other like service required by law, or in the execution of legal process, where no express provision is made for compensation therefor, shall be entitled to one dollar for each day, and fifty cents for each half day, for their services, and four cents a mile for travel in going and returning. Fees of appraisers, commissioners, &c.

FEES OF JURORS.

(26.) SEC. XXVI. *[As amended by laws of 1856, page 12.]* Each grand and petit juror, except talesmen, shall be entitled to one dollar and fifty cents for each day's attendance upon any district court, and six cents for each mile traveled in going and returning by the most usual route, to be paid out of the treasury of the county, by the treasurer thereof, on the certificate of the clerk of the court. Fees of Jurors:

Each talesman summoned and acting as a juror in a court of record, shall be entitled to fifty cents for his services in each cause, to be paid in the same manner herein provided for the payment of grand jurors.

Each juror sworn in any action in a justice's court, or before any sheriff, on any writ of inquiry, shall be entitled to fifty cents, to be paid in the first instance by the party requiring such jury.

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Each juror sworn before any coroner, on any inquest taken by him, shall be entitled to one dollar for each day's attendance on such inquest.

Per diem of Jurors.

*Provided*, however, that no juror shall receive any per diem, or allowance for travel, by virtue of this statute, for any such attendance, or for any travel for which he shall draw pay from the United States, and all certificates issued by the clerk of the district court, for the services of jurors, shall, before being paid by the treasurer of the county, be presented to the board of county commissioners of the county, and audited by them, and countersigned by the chairman of said board, and it is hereby made the duty of the clerks of the boards of county commissioners to keep a record of all certificates presented, which record shall show the time of such presentation, the name of the party presenting the same, and the amount thereof.

Fees of witness and juror in probate court.

(27.) SEC. XXVII. The fees of witnesses and jurors in the probate courts shall be the same as allowed by law to jurors and witnesses in the district courts.

Fees of sheriffs and constables in probate court.

(28.) SEC. XXVIII. The fees of sheriffs and constables, for services rendered in probate courts, and for the service of process therefrom, shall be such as are allowed by law to constables for similar services in civil proceedings before justices of the peace, and where no fees for such services are provided for by law, they shall be entitled to such fees as are allowed to sheriffs for similar services in the district court,

SEC. XXIX. [*Repealed by laws of 1853, chap. 9, sec. 13, p. 21.*]

Printers' fees for publishing notices.

(29.) SEC. XXX. For publishing notices of any application of an insolvent, for six weeks, and furnishing evidence of such publication, one dollar and sixty-seven cents; if published ten weeks, two dollars.

Form of notice.

(30.) SEC. XXXI. Such notice may be published in the following manner:

1. A general heading, stating whether such notices are for the purpose of being discharged from debt, or for the purpose of having the person exonerated from imprisonment, shall be prefixed to each class of applicants; next, the name of the applicant; next, the date of the first publication of such notice; next, the name of the officer before whom the creditors are required to appear; next, the place appointed for such appearance; next, the time for such appearance. And every such application shall be deemed as valid as if such notice had been published at length.

Fees of publishing other notices.

(31.) SEC. XXXII. For publishing any other notice, or any order, citation, summons, or any other proceeding or advertisement, required by law to be published in any newspaper, not more than forty cents per folio, for the first insertion, and twenty-five cents per folio for each insertion after the first.

When and how notice of mortgage sale shall be served.

(32.) SEC. XXXIII. When notice of any sale by virtue of a mortgage, shall be published in other than the county in which the premises are situated, a copy of such notice shall be served, at least four weeks before the time of such sale, on the person in possession of the mortgaged premises, in all cases where the same are occupied; and where they are not occupied, and the mortgagor, his heirs, or personal representatives, shall reside in the county where such premises lie, then upon such mortgagor, his heirs, or personal representatives, as the case may be; proof of the service of such notice may be made, certified and recorded in the same manner and with the like effect, as proof of the publication of a notice of sale under a mortgage.

Officer shall set up table of his fees in his office.

(33.) SEC. XXXIV. Every officer, whose fees are hereinbefore ascertained, limited, and appointed, shall publish and set up in his office, fair tables of his fees according to this chapter, within six months after the

passage thereof, in some conspicuous place, for the inspection of all persons who have business in such office, upon pain of forfeiting for each day the same shall not be put up through such officer's neglect, a sum not exceeding two dollars, which may be recovered by a civil action, in the name of any person, before any justice of the peace of the same county.

(34.) SEC. XXXV. The allowance of any fees by this chapter, shall not apply to any case where special provision is otherwise made by law for any particular service, but the fees for such service shall be such as are provided in the statute requiring the service, or providing the compensation therefor.

This chapter not to apply to special cases.

(35.) SEC. XXXVI. The term "folio," when used as a measure for computing fees or compensation, shall be construed to mean one hundred words, counting every figure necessarily used, as a word; and any portion of a folio, when in the whole draft or paper there shall not be a complete folio, and when there shall be any excess over the last folio, shall be computed as a folio.

"Folio" defined.

(36.) SEC. XXXVII. No judge, justice, sheriff, or other officer whatever, or other person to whom any fees or compensation shall be allowed by law for any service, shall take or receive any other greater fee or reward for such service but such as is or shall be allowed by the laws of this territory.

Extortion prohibited.

(37.) SEC. XXXVIII. No fee or compensation allowed by law shall be demanded or received by any officer or person, for any service unless such service was actually rendered by him, except in the case of prospective costs hereinafter specified; but this section shall not prevent any officer from demanding any fee herein allowed for any service of which he is entitled by law to require the payment, previous to rendering such service.

When fees not to be taken.

(38.) SEC. XXXIX. A violation of either of the last two sections shall be deemed a misdemeanor; and the person guilty thereof shall be liable to the party aggrieved for treble the damages sustained by him.

Penalty.

(39.) SEC. XL. No fees shall be taxed for services as having been rendered by any attorney, solicitor, clerk, sheriff, or other officer, in the progress of a cause, unless such service was actually rendered, except when otherwise expressly provided.

Charges for services not actually rendered.

(40.) SEC. XLI. Prospective costs may be charged and taxed for filing decree, and for one execution.

Prospective costs.

(41.) SEC. XLII. Whenever any allowance is made for drafting any process, pleading, or proceeding, it shall be made for only one draft of the same, although several may have been issued and used.

Allowance for one draft only.

(42.) SEC. XLIII. No record, writ, return; pleading, instrument, or other writing copied into any proceeding, entry, process, or suggestion, shall be computed as any part of the draft of such proceeding, entry, process, or suggestion.

What not to be computed part of draft.

(43.) SEC. XLIV. The legal fees paid for certified copies of the depositions of witnesses, filed in any clerk's office, and of any documents or papers recorded or filed in any public office, necessarily used on the trial of a cause, or on the assessment of damages, shall be allowed in the taxation of costs.

Fees paid for certified copies allowed.

(44.) SEC. XLV. No attorney, solicitor, or counsel, in any cause, shall be allowed any fee for attending as a witness in such cause.

Attorney not allowed fees as witness.

(45.) SEC. XLVI. Every officer, upon receiving any fees for any official duty or service, shall, if required by the person paying the same, make out in writing and deliver to such person, a particular account of such fees, specifying for what they respectively accrued, and shall receipt

Officer receiving fees, to give receipt in items.

the same; and if he refuse or neglect to do so, he shall be liable to the party paying the same for three times the amount so paid.

Fees for administering oath of office.

(46.) SEC. XLVII. No fee shall be charged by any officer for administering the oath of office to any member of the legislature, to any military officer, or to any township officer, and no more than twelve cents shall be charged for administering such oath to any other officer.

Fees allowed to one officer shall be paid to another performing the service.

(47.) SEC. XLVIII. When a fee is allowed to one officer, the same fees shall be allowed to other officers for the performance of the same services, when such officers are by law authorized to perform such services.

When witness for United States shall receive fees.

(48.) SEC. XLIX. When any person shall attend a court of record as a witness in behalf of the United States, upon the request of the public prosecutor, or upon a subpoena, or by virtue of a recognizance for that purpose, and it shall appear that such person has come from any other state or territory of the United States, or from any foreign country, or that such person is poor, the court may, by order, on its minutes, direct the county treasurer, of the county in which the court shall be setting, to pay to such witness such sum of money as shall seem reasonable for his expenses.

When fees of prosecution to be paid by county.

(49.) SEC. L. When any prosecution, instituted in the name of this territory, for breaking any law of this territory, shall fail, or when the defendant shall prove insolvent or escape, or be unable to pay the fees when convicted, the fees shall be paid out of the county treasury, unless otherwise ordered by the court: *provided*, that no fees shall be paid out of the county treasury for mileage to the district attorney.

Attorney general may issue subpoenas, &c.

(50.) SEC. LI. The attorney general and district attorney in each county is authorized to issue subpoenas, and compel the attendance of witnesses, on behalf of the territory or county, without paying or tendering fees in advance; and any witness failing or neglecting to attend, after being served with a subpoena, may be proceeded against, and shall be liable in the same manner as provided by law in other cases where fees have been paid or tendered.

When clerk to give witness certificate, &c.

(51.) SEC. LII. The clerk of any court, at which any witness shall have attended on behalf of the United States, in a civil action, shall give to such witness a certificate of travel and attendance, which shall entitle him to receive the amount from the treasurer of the county where the suit arises.

Construction of the two preceding sections.

(52.) SEC. LIII. The provisions of the next two preceding sections of this chapter, shall extend to all suits and information brought in the name of the attorney general, or any other person or persons, for the benefit of the county where the suit arises.