

Statutes
1878

THE
GENERAL STATUTES
OF THE
STATE OF MINNESOTA,

As Amended by Subsequent Legislation.

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

FOURTH EDITION.

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

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have notice of the contracts and debts of her husband, as fully as if a party thereto. (1869, c. 56, § 4.)

*§ 5. Desertion, etc., by husband or wife—proceedings to debar guilty party from interest in property of the other. Whenever a married man shall be deserted by his wife, or a married woman shall be deserted by her husband, for the space of one year, or whenever he or she would, for any cause, be entitled to a divorce from such husband or wife under the laws of this state, he or she may bring an action in the district court of the proper county, asking for a decree which shall debar him or her so deserting or furnishing grounds for a divorce, from any right or estate, by the curtesy or in dower, or otherwise, as the case may be, in or to his or her lands, and which will give such husband or wife, full authority to aliene, sell and convey, and dispose of his or her lands, without the interference of or signature of the husband or wife so deserting, or being guilty of acts which would entitle the person bringing such action to a divorce; and the court may grant such decree whenever it shall appear just or expedient; and thereupon the husband or wife shall have full control of his or her real estate, with power to convey the same without the husband or wife joining in the conveyance, and as fully as if he or she were unmarried; or the court may, by such decree, make such limitations on the power to convey such real estate as may seem meet and proper in the premises. A certified copy of such decree may be recorded in the deed records in the office of the register of deeds of any county wherever such lands, or any part thereof, may be situated. (*Id.* § 5, as amended 1874, c. 66, § 1.)

^{22 M. 348.}

*§ 6. Ante-nuptial contracts—husband's liability for wife's torts. Nothing in this act shall be construed to affect ante-nuptial contracts or settlements, nor to exempt a husband from liabilities for torts committed by his wife. (*Id.* § 6.)

CHAPTER LXX.

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§ 1. Allowance of fees. For the services mentioned in this chapter, the fees hereinafter described are allowed:

FEES OF CLERKS OF DISTRICT COURTS.

§ 2. Schedule of fees. For issuing and sealing every writ, summons, subpoena or process, fifty cents.

Certified copy of such writ, when required, ten cents per folio, and twenty-five cents for certificate.

Entering the return of every writ and filing such writ, ten cents per folio.

Entering an appearance, retraxit, discontinuance, non-suit, or default, twenty cents.

Entering every rule, order or motion, in term, ten cents for each folio.

Certified copies of rules or orders, ten cents for each folio, and twenty-five cents for the certificate.

Every report upon an assessment of damages or other matter referred to him, seventy-five cents, and ten cents per folio for such report when it exceeds five folios.

Every certificate, twenty-five cents.

Calling and swearing grand jury, fifty cents.

Calling and swearing petit jury in civil causes, fifty cents.

Swearing jurors in criminal causes, ten cents for each oath administered.

Swearing each witness on trial, ten cents.

Swearing officers to take charge of jury, ten cents.

Entering or taking a recognizance, fifty cents.

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

Receiving and entering a verdict, twenty-five cents.

Entering an action without process, fifty cents.

Certified copy of the minutes of a trial, when required, ten cents per folio.

Entering a final judgment, when the same does not exceed three folios, fifty cents, and ten cents for each additional folio.

Copy of judgment to be attached to judgment-roll, ten cents for each folio.

Entering satisfaction of judgment, twenty cents for each judgment debtor.

Drawing a special jury, seventy-five cents.

Filing every paper, five cents.

Copies and exemplifications of records and pleadings, 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.

Administering oaths not otherwise provided for herein, twenty-five cents.

Recording credentials of ordination of ministers, and giving a certificate, seventy-five cents.

Recording certificate of solemnization of marriage, fifty cents.

Filing and docketing transcripts of judgment from another county, or from justice court, when but one judgment debtor, twenty-five cents, and ten cents for each additional judgment debtor.

Entering an appeal or transcript from justice court, fifty cents.

Entering a surrender of bail, twenty-five cents.

Issuing commission to take deposition, one dollar.

Issuing venire facias, one dollar.

Certificate of juror's and witness' attendance at court, fifteen cents.

Entering forfeiture of recognizance, twenty-five cents.

Entering discharge of bail, twenty-five cents.

Entering a declaration to become a citizen of the United States, fifty cents.

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

Entering the final admission of an alien to the rights of citizenship, fifty cents.

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

Making docket entries of judgments, twenty cents for each judgment debtor.

Admission of attorneys, one dollar.

Taxing costs, fifty cents.

Certified copy of marriage record, fifty cents.

Certified transcript of docket entry, fifty cents.

Attendance on court, for each day of actual session, three dollars.

For all other services required by law to be performed by such clerk, respectively, such fees as compare favorably with the rates herein prescribed, and as may be established by general rule or order of the court: *provided*, that the fees of clerks of the district court, in actions for the foreclosure of mortgages on real estate, where no trial is had, shall not exceed the sum of four dollars for all services required to be performed by said clerks in such actions. (*As amended 1877, c. 120, § 5, and 1878, c. 50, § 1.*)

See next section.

*§ 3. **Limitation of Laws 1877, c. 120.** The provisions of this act shall not affect the salary of any county officer whose salary is now provided for by a special law for such county, fixing his salary, nor to the salary, fees or clerk hire of the county auditor or county treasurer of the county of Dodge, but such officers shall be entitled to receive only such salary, fees and clerk hire as is now by law provided; nor to the counties of Ramsey and Hennepin, nor Kandiyohi. (*1877, c. 120, § 6, as amended 1878, c. 50, § 2.*)

CLERKS OF DISTRICT COURT IN HENNEPIN AND RAMSEY COUNTIES.

*§ 4. **Schedule of fees—deposit by plaintiff, etc.** The fees and compensation of the clerks of the district court and court of common pleas of said counties, shall be as follows:

For entering a discontinuance, nonsuit or default, ten cents.

Entering every return on writ or order, ten cents for each folio.

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

Every report upon an assessment of damages or matter referred to him, ten cents for each folio.

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 officer to take charge of jury, ten cents.

Entering every recognizance, fifty cents.

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

Receiving and entering a verdict, twenty cents.

Entering every cause or suit in register, twenty-five cents.

Certified copy of the minutes of a trial, when requested, ten cents per folio.

Entering every final judgment, thirty cents, and ten cents for each folio exceeding three.

For indexing case in register, ten cents.

For copy of judgment to be attached to judgment-roll, ten cents for each folio.

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

Drawing a special jury in cause, fifty cents.

For a writ or subpoena, when issued by a clerk on request, and sealing the same, twenty-five cents.

Copies and exemplifications of records and of pleadings, ten cents for each folio.

Searching the records or files in his office, if a copy is not required, twenty-five cents.

For administering oaths not otherwise provided for herein, twenty-five cents.

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

Entering appeal from justice court, twenty-five cents.

Entering a surrender of bail, fifteen cents.

Issuing a commission to take deposition, fifty cents.

Issuing a venire facias, fifty cents.

Certificate of jurors' or witnesses' attendance at court, to be paid from county treasury, each five cents.

Entering forfeiture of recognizance, fifteen cents.

Entering discharge of bail, fifteen 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, twenty-five 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, twenty-five cents.

For making docket entries of judgment, ten cents for each judgment debtor.

For filing and docketing transcript of judgment from another county, or from justice court, when but one judgment debtor, thirty cents, and twenty cents for each additional judgment debtor, in addition to the fees for entering the case.

For docketing and entering the return of and filing execution, twenty-five cents.

For certified copy or transcript of judgment, fifty cents.

For filing papers, five cents each.

For granting license of marriage, with the seal affixed thereto, administering the oath to the applicant therefor, recording the certificate of marriage, and filing the necessary papers, one dollar and fifty cents.

Taxing costs, twenty-five cents.

Attendance at court, three dollars per day; when more than one session of court shall be held at the same time, requiring the attendance of the clerk by deputy at one or more of such sessions, such per diem shall also be allowed for such necessary deputy or deputies.

And no civil action, proceeding or appeal shall be entered in the clerk's office of the said district or common pleas court, until the plaintiff, relator or appellant, desiring such entry, shall deposit with said clerk the sum of one dollar as security for the clerk's fees in such action, proceeding or appeal, and out of which the said clerk shall satisfy the fees due from such party as they accrue; and whenever said sum is exhausted, but not before, the said clerk shall require, as a condition of further entries for said party, an additional deposit of one dollar for the purpose and application aforesaid, and the same amount, in the same condition, for the same purpose and application, whenever such exhaustion occurs; and any balance remaining after the termination of the action, proceeding or appeal, shall be returned to the party depositing the same, or to his attorney in the proceeding. This provision shall not apply in cases where the cities of Minneapolis and Saint Paul, or the counties of Hennepin and Ramsey are interested, or the state of Minnesota, or to cases when applications are made for judgment for taxes or assessments. And the per diem compensa-

tion mentioned herein shall be in full of all compensation, fees or allowances in suits or proceedings when either of said counties, or any city or town thereof, or the state, is interested; but in all such cases, and in cases of special assessments and tax judgments, the fees shall be charged and taxed as now provided by law, and shall be collected and paid into the treasury of the town, city or county entitled thereto. (Sp. Laws 1876, c. 207, § 5.)

FEES OF THE CLERK OF THE SUPREME COURT.

§ 5 (SEC. 3.) **Schedule of fees.** For drawing a writ of error, or other process issued under the seal of the court, one dollar.

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

Filing papers, 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 respondent, fifteen cents.

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

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

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

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

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

Every certificate, twenty-five cents.

Taxing costs, fifty cents.

Entering satisfaction of record, fifteen cents.

Taking security, fifty cents.

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

Searching records and files in his office, 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 direct.

Admission of attorneys, two dollars.

FEES OF COMMISSIONERS TO TAKE TESTIMONY

§ 6. (SEC. 4.) **To have same fees as justices.** The person to whom any commission issues to take testimony in any action shall receive the same fees as allowed to justices of the peace for the same services.

FEES OF JUDGES OF PROBATE.

NOTE.—By section 5 of this chapter of the General Statutes, the fees of judges of probate for their various official acts were regulated. By Laws 1875, c. 37, it is provided that, in lieu of such fees, a gross sum shall be paid into the county treasury on account of each estate administered in the probate court, and the judge is made a salaried officer. See these provisions, ante, c. 7, §§ 5-9.

FEES OF EXECUTORS AND ADMINISTRATORS.

§ 7. (SEC. 6.) **Per diem and disbursements—additional allowance.** For actual service two dollars per day, and their actual and necessary disbursements for the benefit of the same; but the probate court may allow executors and administrators, in cases of unusual difficulty or responsibility, such further sum as the judge deems reasonable. (*As amended 1868, c. 66, § 1.*)

FEES OF WITNESSES.

§ 8. (SEC. 7) **In courts of record—in justices' courts—mileage—experts.** For attend-

ing in any action or proceeding pending in a court of record, one dollar for each 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.

For traveling, at the rate of six cents per mile, in going to and returning from the place of attendance, to be estimated from the residence of such witness, if within this state, or from the boundary line of this state which such witness passed in coming, if his residence is out of the state: *provided*, that the judge of any court of record in this state, before whom any witness is summoned, or sworn and examined, as an expert in any profession or calling, may, in his discretion, allow such fees or compensation as, in his judgment, may be just and reasonable. (*As amended 1872, c. 76, § 1.*)

§ 9. (SEC. 8.) ^{14 M. 286; 16 M. 329; 21 M. 453.} One day's fees and mileage to be paid in advance. No person is obliged to attend as a witness unless the fees are paid or tendered to him which are allowed by law for one day's attendance as a witness, and for travelling to and returning from the place where he is required to attend.

§ 10. (SEC. 9.) ^{2 M. 26 (37.)} Fees of witnesses in criminal cases. Witnesses for the state in criminal cases before any court of record shall receive, for such attendance, one dollar for each day, and six cents per mile in going to and returning from the place of attendance. And the judges of the district court may, in their discretion, allow fees to witnesses attending in criminal proceedings on behalf of the defendant, which shall not exceed the fees allowed by law in civil actions. Such allowances shall be certified by the clerk of the court, and paid in the same manner that jurors are paid. (*As amended 1870, c. 77, § 1.*)

SHERIFFS.

§ 11. (SEC. 10.) Schedule of fees, etc. For serving a summons, or any process issued by a court of law, one dollar for each defendant served.

Travelling in making any service upon any writ or summons, ten cents per mile for going and returning, to be computed from the place where the court is usually held.

Taking and approving a bond, fifty cents.

A certified copy of such bond, when requested, ten cents per folio.

Copy of every summons or other paper served by the sheriff, when such copy is made by him, ten cents per folio.

Collections on executions, when the same is collected or settled after levy at the rate of four per centum upon the first two hundred and fifty dollars, and two per centum upon the excess of said sum.

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 are 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.

Advertising sale, one dollar, and the reasonable fees paid to any printer by such sheriff for publishing an advertisement of sale.

Posting three notices of such sale, one dollar and fifty cents.

Every certificate on the sale of real estate, two dollars, and one dollar for each copy, which, together with the register's fees for filing the same, shall be collected as other fees on execution; but no sheriff shall charge for more than one certificate issued upon the same sale to the same purchaser, unless he requires it, in which case he shall pay to said sheriff one dollar for each additional certificate.

Serving a writ of restitution or possession, and putting any person entitled into the possession of premises, and removing the occupants, three dollars.

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, fifty cents for each juror, and mileage.

Summoning a jury pursuant to any precept or summons of any officer in special proceedings, two dollars; and attending such jury, when required, one dollar.

Bringing up a person on a habeas corpus to testify or answer in any court, or with the cause of his arrest and detention, or for the purpose of having him surrendered in exoneration of his bail; or attempting to receive a prisoner so surrendered who was not committed at the time, and receiving such prisoner into his custody; or for committing a prisoner to jail; or for bringing any prisoner before any court for examination; in either case, one dollar; and for travelling, the same mileage as upon service of writs; and for attending before any officer or court in any such case, two dollars per day.

Attending court, three dollars per day.

Boarding prisoners, four dollars per week.

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

Selling any ship, boat, vessel, or the tackle, apparel and furniture thereof so attached, and for advertising the same, the same fees as are allowed on executions.

Making and returning an inventory and an appraisal of property attached in any case, two dollars per day to each appraiser for each day actually employed, and one dollar for each half-day.

Summoning grand or petit jurors, fifty cents for each juror summoned, and mileage at fifteen cents per mile for the number of miles necessarily travelled in summoning the panel.

Serving subpoena, fifty cents for each witness summoned, and mileage as in service of a summons; but when two or more witnesses live in the same direction, mileage shall be charged only for the furthest.

Selling lands on foreclosure of mortgage by advertisement, and executing certificate and deed to purchaser, and for all services required on such sale, three dollars.

Selling land on decree by foreclosure, and executing a deed, and for all services required in making such sale, the sum of three dollars.

Postponing a sale, one dollar, to be paid by the party requesting the same.

Making and drafting an inventory of property levied upon, replevied or attached, twenty-five cents for each folio; and for each copy of such inventory, ten cents per folio.

For diligent search and inquiry, and returning summons, when parties can not be found, one dollar; and returning execution when no property found, one dollar.

Receiving and paying over the money paid on redemption of property, and executing certificate therefor, one per cent. on the amount so received and paid, to be collected from the person redeeming such property.

For the necessary expenses which may be incurred to secure and safely keep all property taken by the sheriff by virtue of a warrant of attachment, execution or writ of replevin, such sum as may be allowed by the court.

23 M. 458.

For all United States revenue stamps, now or hereafter required by law to be used upon any certificate, deed, or other instrument, the cost of such

stamps so used, and also such sum as may be required to be paid to the United States government as a tax on any sale made by him.

For any services not herein enumerated, which a sheriff may be required to perform, he shall receive the fees herein allowed for similar services. (*As amended, 1878, c. 8, § 1.*)

23 M. 458.

SHERIFFS OF RAMSEY AND HENNEPIN COUNTIES.

*§ 12. *Schedule of fees, etc.* The fees and compensation of the sheriffs of said counties of Hennepin and Ramsey counties, shall be as follows:

For serving a summons or any process issued by a court of law, one dollar for first defendant served, and fifty cents for each additional.

Travelling in making any service upon any writ or summons, ten cents per mile for going and returning, to be computed from the place where the court is usually held.

Taking and approving a bond, fifty cents.

A certified copy of such bond, when requested, ten cents per folio.

Copy of every summons or other paper served by the sheriff, when such copy is made by him, ten cents per folio.

Collections on executions, when collected without levy, or, when levied upon personal property, when the same is collected or settled after levy, at the rate of four per centum upon the first two hundred and fifty dollars, and two per centum upon the excess of said sum.

Selling lands on execution or decree, and executing certificate or deed, and for all services required in making such sale, the sum of ten dollars.

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 are several executions against the defendant, at the time of advertising his property, in the hands of the same sheriff, there shall be but one advertisement fee charged on the whole, and the sheriff shall elect on which execution he will receive the same.

Advertising sale, one dollar, and the reasonable fees paid to any printer by such sheriff for publishing an advertisement or sale.

Posting three notices of such sale, one dollar and fifty cents.

Every certificate on the sale of real estate, two dollars, which, together with the register's fees for recording the same, shall be collected as other fees on execution; but no sheriff shall charge for more than one certificate issued upon the same sale to the same purchaser, unless he requires it, in which case he shall pay to said sheriff one dollar for each additional certificate.

Serving a writ of restitution or possession, and putting any person entitled into the possession of premises, and removing the occupants, three dollars.

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, fifty cents for each juror, and mileage actually and necessarily travelled.

Bringing up a person on habeas corpus to testify or answer in any court, or with the cause of his arrest or detention, or for the purpose of having him surrendered in exoneration of his bail; or attempting to receive a prisoner so surrendered who was not committed at the time, and receiving such prisoner into his custody; or for committing a prisoner to jail; or for bringing a prisoner before any court for examination; in either case, one dollar; and for travelling, the same mileage as upon service of writs; and two dollars per day for attending court with such prisoner.

Summoning grand or petit jurors, twenty-five cents for each juror, and ten cents mileage actually and necessarily travelled in summoning said jurors.

Attending court, three dollars per day, each, for himself and two deputies, during jury trials only.

Boarding prisoners, three dollars per week.

Serving subpoenas, fifty cents for each witness summoned, and mileage as in service of a summons; but when two or more witnesses live in the same direction, mileage shall be charged only for the furthest.

Selling lands on foreclosure of mortgage by advertisement, and executing certificate and deed to purchaser, and for all services required on such sale, three dollars.

Postponing a sale, one dollar, to be paid by party requesting the same.

Making and drafting an inventory of property levied upon, replevied or attached, twenty-five cents for each folio, and for each copy of such inventory, ten cents per folio.

For diligent search and inquiry, and returning summons, when parties cannot be found, one dollar, without regard to number of defendants; and returning execution when no property can be found, one dollar.

Receiving and paying over the money paid on redemption of property, and executing certificate therefor, one per cent. of the amount so received and paid, to be collected from the person redeeming such property, but not exceed in any one case fifty dollars.

For all the necessary expense which may be incurred to secure and safely keep all property taken by the sheriff, by virtue of a warrant of attachment, execution, or writ of replevin, such sum as may be allowed by the court.

The county commissioners of each of said counties shall allow the sheriff of their respective counties the sum of six hundred dollars per annum as compensation for a watchman or turnkey of the jail; but all bailiffs, deputy sheriff attendant upon court, shall be furnished by such sheriff.

The food furnished persons shall be of good substantial quantity, and of the variety needed for health, and as shall be regulated by the county commissioners. (Sp. Laws 1876, c. 207, § 3, as amended by Sp. Laws 1878, c. 79, § 1.)

FEES OF CORONERS.

§ 13. (SEC. 11.) **In general—inquests—allowance to physicians.** For all services rendered by coroners, they shall receive the same fees allowed to sheriffs for like services; and for an inquest or examination of a dead body, they shall receive five dollars per day for the time actually spent, and ten cents per mile to and from the place where such inquest or examination shall take place. There shall be allowed to physicians called by the coroner to make any professional post mortem examination, six dollars per day, and ten cents per mile for actual distance travelled in going to and from the place of holding such inquest or examination. (As amended 1873, c. 46, § 1.)

FEES OF CONSTABLES.

§ 14. (SEC. 12.) **Schedule of fees.** Constables shall 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.

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

Serving an attachment, fifty cents.

Each copy of an attachment, fifteen cents.

Each copy of inventory of property seized on attachment, fifteen cents.

Serving summons on garnishee, fifty cents.

Copy of any affidavit or other paper not otherwise enumerated, per folio, ten cents.

Posting each notice, fifteen cents.

Attending on justice's court, when required by the justice, one dollar per day.

Serving any process or paper authorized to be served by them, for travel, ten cents per mile, both going to and returning from the place of service.

Committing to prison, fifty cents.

Summoning a jury, one dollar.

Writing a list of jurors, fifteen cents.

Attending on a jury, fifty cents.

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

Serving every writ of replevin, fifty cents.

Summoning and swearing appraisers, and taking appraisement, fifty cents.

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

§ 15. (SEC. 13.) Fees of other persons for same services. When the services mentioned in the last section are performed by the sheriff or any other person, the same fees shall be allowed that constables are entitled to receive.

FEES OF NOTARIES PUBLIC.

§ 16. (SEC. 14.) Schedule of fees. 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.

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.

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 each oath administered, twenty-five cents.

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

Recording each instrument required by law to be recorded by him, ten cents per folio.

FEES OF JUSTICES OF THE PEACE.

§ 17. (SEC. 15.) Schedule of fees. Justices of the peace shall receive the following fees and may tax the same in all cases where applicable:

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.

Taking a recognizance of bail, twenty-five cents.

Administering an oath, fifteen cents.

Certifying the same, when administered out of court, fifteen cents.

For a writ of attachment, twenty-five cents.

Entering a judgment, twenty-five cents.

Every adjournment, fifteen cents.

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

Swearing a jury, twenty-five cents.

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.

- Entering a satisfaction of judgment, twenty-five cents.
- Issuing commission to take testimony, fifty cents.
- Entering any order, or exceptions thereto, fifteen cents.
- Entering amicable suit without process, twenty-five cents.
- For a transcript of judgment, twenty-five cents.
- Opening a judgment for rehearing, twenty-five cents.
- Filing every paper required to be filed, five cents.
- Issuing notice to take deposition, twenty-five cents.
- Taking recognizance, certifying oath or affidavit, and making return to an appeal, including travel, two dollars.
- 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.
- 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.
- 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.
- Holding an inquisition, in cases of forcible entry and detainer, in addition to other fees, one dollar.
- Taking and certifying the acknowledgment of a deed, for each grantor named therein, twenty-five cents.
- For travelling to perform any duty, when not otherwise provided for, and such travel is necessary, going and returning, per mile, ten cents. (*As amended 1867, c. 89, § 1.*)

PROVISIONS IN RELATION TO FEES IN JUSTICES' COURTS.

- § 18. (SEC. 16.) **Costs to prevailing party.** In all civil actions, unless otherwise provided, the party in whose favor judgment is given shall recover costs.
10 M. 175 (220); 12 M. 216; 16 M. 329.
- § 19. (SEC. 17.) **Justice may tax costs without notice.** At the time of entering a judgment for costs, in any case, the justice may proceed to tax the costs; and no notice of such taxing need be given to the party against whom judgment is rendered.
- § 20. (SEC. 18.) **Fees for travel of witnesses.** The justice shall allow no fees for the travel of witnesses, unless the same is proved by the oath of some person qualified to testify in the action.
16 M. 329.
- § 21. (SEC. 19.) **Fees for travel in serving subpoena.** No fees shall be allowed for travel in serving a subpoena, unless the same is charged by a constable or sheriff, or is proved by the oath of the person who served the same.
- § 22. (SEC. 20.) **Fees of only two witnesses to same fact.** The attendance of only two witnesses to each particular fact before a justice of the peace shall be taxed in the bill of cost.
- § 23. (SEC. 21.) **Fees for copies not allowed, unless used.** Nor 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.
- § 24. (SEC. 22.) **Items of disbursements to be specified, etc.** 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.

§ 25. (SEC. 23.) **Justice to hear evidence as to charges.** 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.

FEES OF REGISTER OF DEEDS.

§ 26. (SEC. 24.) **Schedule of fees.** For entering or recording any deed or other instrument, ten cents for each folio, to be paid when the same is left for record.

For every certificate, ten cents.

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

For translations for record and recording any deed or other paper coming from a foreign country, in any other than the English language, twenty-five cents per folio.

Every entry of a discharge of mortgage, ten cents.

Filing every other paper, and making an entry thereof when necessary, ten cents.

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

Searching the record, ten cents.

For an abstract of title, twenty-five cents for every transfer, and twenty-five cents for his certificate. (*As amended 1877, c. 120, § 4.*)

See *ante*, § 3.

REGISTERS OF DEEDS IN RAMSEY AND HENNEPIN COUNTIES.

*§ 27. **Schedule of fees.** The fees and compensation of the register of deeds of said counties shall be as follows:

For entering, indexing and recording any deed or other instrument, ten cents for each folio, to be paid when the same is left for record.

For every certificate, fifteen cents.

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

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

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

Filing every instrument, and making an entry thereof when necessary, ten cents.

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

Searching the records, ten cents:

Provided, the compensation to the register of deeds of Ramsey county until and including December thirty-first, eighteen hundred and seventy-nine, for recording instruments or making copies of papers or records, shall be twelve and one-half cents per folio. (*Sp. Laws 1876, c. 207, § 4, as amended by Sp. Laws 1878, c. 82, § 1.*)

FEES OF REFEREES.

§ 28. (SEC. 25.) **In general—agreement for other compensation.** The fees of referees are five dollars to each, for every day spent in the business of the reference; but the parties may agree, in writing, upon any other rate of compensation, and thereupon such rate shall be allowed.

FEES OF APPRAISERS, COMMISSIONERS, AND OTHERS.

§ 29. (SEC. 26.) **Per diem and mileage.** 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 a partition of real estate, sheriff's 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 for their services, and five cents a mile for travel in going and returning.

FEES OF JURORS.

§ 30. (SEC. 27.) **Grand and petit jurors—before coroners, justices, etc.** Each grand and petit juror shall be entitled to two dollars for each day's attendance upon any district court, and ten cents for each mile travelled in going to and returning from the said court, the distance to be computed by the usual travelled route, and paid out of the county treasury of the county in which the service was rendered. The clerk of the district court shall deliver to each juror a certificate for the number of days' attendance, and miles travelled, for which he is entitled to receive compensation.

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

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

Provided, that the certificate of the clerk for services rendered as such juror, in the district court, or by the coroner, shall be filed with the county auditor, who shall issue his warrant on the treasurer of his county for the amount due, which certificate shall be a proper and sufficient voucher for the issuance of said warrant: *provided further*, that the provisions of this act in relation to the amount allowed jurors in the district court shall not apply to the county of Ramsey. (*As amended 1870, c. 80, § 1.*)

FEES OF PRINTER.

§ 31. (SEC. 28.) **Rate per folio—term defined.** For publishing any notice, or any order citation, summons, or any other proceeding or advertisement, required by law to be published in any newspaper, not more than seventy-five cents per folio for the first insertion, and thirty-five cents per folio for each insertion after the first; and for the purpose of computing the same, a folio is hereby declared to be equal to the space occupied by two hundred and fifty ems of solid matter of the kind of type used. (*As amended 1869, c. 80, § 1.*)

FEES OF COURT COMMISSIONERS.

*§ 32. **Schedule of fees.** Court commissioners, for services mentioned in this act, shall be allowed the following fees:

For examining any petition, complaint, affidavit, or other paper wherein an order is required, one dollar.

For making and entering an order on the same, fifty cents.

For taking bail, or approving sureties on any bond or recognizance, fifty cents.

For hearing and deciding on the return of a writ of habeas corpus, three dollars for each day necessarily occupied in the hearing of the same.

For all other services rendered by them, the same fees as allowed by law to other officers for similar services. (*1868, c. 97, § 1.*)

GENERAL PROVISIONS.

§ 33. (SEC. 29.) **Officers to set up table of fees—penalty for neglect.** Every officer whose fees are herein fixed, shall publish and set up in his office, fair tables of his fees, according to this chapter, 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. 30.) **Taking of illegal fees forbidden.** No judge, justice, sheriff, or other officer whatever, or other person to whom any fees or compensation is allowed by law for any service, shall take or receive any other greater fee or reward for such service than is allowed by the laws of this state.

§ 35. (Sec. 31.) **No fees for services not actually performed.** 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.

§ 36. (Sec. 32.) **Penalty for violation of two last sections.** A violation of either of the last two sections is a misdemeanor; and the person guilty thereof shall be liable to the party aggrieved for treble the damages sustained by him.

§ 37. (Sec. 33.) **Fees not to be taxed for services not rendered.** No fees shall be taxed for services as having been rendered by any clerk, sheriff, or other officer, in the progress of a cause, unless such service was actually rendered, except when otherwise expressly provided.

§ 38. (Sec. 34.) **Taxation of prospective costs.** In entering any judgment or decree, no prospective costs shall be taxed or included therein, except for docketing the same, unless the party demanding such judgment or decree shall require the costs of an execution or transcript of the judgment to be taxed and included therein, in which case the same shall be so taxed and included. (*As amended 1877, c. 33, § 1.*)

§ 39. (Sec. 35.) **Fees for copies of papers may be taxed, when.** 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.

§ 40. (Sec. 36.) **Attorney not entitled to witness fees.** No attorney or counsel in any cause shall be allowed any fee for attending as a witness in such cause.

§ 41. (Sec. 37.) **Officer to give account of fees, if required—penalty for failure.** 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 the same; and if he refuses or neglects to do so, he shall be liable to the party paying the same for three times the amount so paid.

§ 42. (Sec. 38.) **Officers performing same services, entitled to same fees.** 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.

§ 43. (Sec. 39.) **Allowance to witness for state in criminal case.** When any person shall attend a court of record as a witness in behalf of the state of Minnesota, upon request of the public prosecutor, or upon a subpoena, or by virtue of a recognizance for that purpose, and it appears 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 sitting, to pay to such witness such sum of money as shall seem reasonable for expenses.

§ 44. (Sec. 40.) **Fees of prosecution paid out of county treasury, when.** When any prosecution, instituted in the name of this state, for breaking any law thereof, fails, or when the defendant proves insolvent or escapes, or is unable to pay the fees, when convicted, the fees shall be paid out of the county treasury, unless otherwise ordered by the court.

§ 45. (Sec. 41.) **Witnesses to attend without prepayment of fees, when.** The attorney general, or county attorney in each county, is authorized to issue subpoenas, and compel the attendance of witnesses, on behalf of the state or county, without paying or tendering fees in advance; and, in criminal cases, the witnesses for the defendant shall also be compelled to attend without payment or

tender of 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.

§ 46. (SEC. 42.) Same—payment of witnesses for state. The clerk of any court at which any witness has attended on behalf of the state, 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 action arises.

§ 4. See 1881 Suppl., p. 105.
 And §§ 2, 4. See 1883 Suppl., p. 80.

CHAPTER LXXI.

PETIT JURIES.

SECTION.

1. Petit jury defined.
2. Names of jurors to be drawn for each term.
3. Qualifications and disabilities of jurors.
4. How drawn and summoned.
5. Judge may order larger number drawn, when.
6. Ballots, how prepared and deposited.
7. Proceedings on trial of indictment.
8. Ballots, how drawn.
9. Ballots, how kept.
10. Ballots returned to box, when.
11. Ballot with name of juror absent or excused.

SECTION.

12. Court may cause talesmen to be returned, when.
 13. Talesmen, by whom returned.
 14. Qualifications of talesmen.
- STRUCK JURIES.
15. Struck jury, when and how to be obtained.
 16. Substitute for sheriff when interested—time of striking and service.
 17. Party asking for struck jury to pay fees.
 18. Struck jury may be continued.
 19. Limitation of provisions of this title.

§ 1. **Petit jury defined.** A petit jury is a body of twelve men impanelled and sworn, in a district court, to try and determine, by a true and unanimous verdict, any question or issue of fact, in any civil or criminal action or proceeding, according to law and the evidence as given them in court.

§ 2. **Number of jurors to be drawn for each general term.** A number of petit jurors, not less than twenty-four, shall be drawn for each general term of the district court, and no greater number shall be drawn unless the court otherwise orders, but in no case shall more than thirty-six petit jurors be drawn.

§ 3. **Qualifications and disabilities.** The qualifications and disabilities of petit jurors shall be the same as those prescribed by law for grand jurors.

§ 4. **How drawn and summoned.** The petit jurors shall be drawn and summoned at the same time and in the same manner as is by law prescribed for the drawing and summoning of grand jurors.

§ 5. **Judge may order larger number to be drawn, when.** The judge of the district court may, at least thirty days before the time for holding a general term of said court, order a number of petit jurors greater than twenty-four, and not exceeding thirty-six, to be drawn and summoned for such term; and upon such order being made and entered upon record in the office of the clerk of the court in the county where such term is to be held, such clerk shall draw and issue a venire for the number of jurors mentioned in such order.

§ 6. **Ballots, how prepared and deposited.** At the opening of the court the clerk shall prepare separate ballots containing the names of the persons summoned as petit jurors, which shall be folded as nearly alike as possible, and so that the name cannot be seen, and be deposited in a sufficient box.