

GENERAL STATUTES ³⁶
OF THE
STATE OF MINNESOTA

IN FORCE

JANUARY 1. 1889.

COMPLETE IN TWO VOLUMES.

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VOLUME 2, Supplement.—Changes effected in the General Statutes of 1878 by the General Laws of 1879, 1881, 1881 Extra, 1883, 1885, and 1887, arranged by H. J. HORN, Esq., with Annotations by STUART RAPALJE, Esq., and others, and a General Index by the Editorial Staff of the NATIONAL REPORTER SYSTEM.

VOL. 2.

SUPPLEMENT, 1879-1888,

WITH

ANNOTATIONS AND GENERAL INDEX TO BOTH VOLUMES.

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owner for the right of way of the road by them laid out over or across his lands, unless such right of way shall be by the owners duly and voluntarily released to the board of county commissioners in which such land is situated, and in their report said commissioners shall include and set forth separately each appraisal of such damages or compensation made by them, and all voluntary [re]leases of the right of way taken by them. (1873, c. 90, § 1, as amended 1883, c. 64, § 2.)

***§ 82. Jury trial.**

Sections 76-82 must be construed together, and the proceeding authorized to be instituted is in the nature of a special judicial proceeding, to be conducted under the authority and supervision of the district court. *State v. McDonald*, 26 Minn. 445, 1 N. W. Rep. 332.

***§ 83. Damages—Payment.**

When the amount of the damages or compensation to be paid to any one or more of the owners of land taken for such road shall have been finally determined by proceedings under the provisions of this act, the board of county commissioners of the county in which such land is situate shall provide for the payment of and pay the same in the manner provided by law for the payment of the like damages or compensation for land taken for a county highway or road laid out and established by the board of county commissioners: *provided*, that when a road is laid out on a line between two counties, each county shall pay one-half of the amount of damages as determined. (1873, c. 70, § 2, as amended 1883, c. 64, § 3.)

***§ 97. Cart-ways—Highway labor upon.**

The town supervisors of this state, in their respective towns, may, in their discretion, allow any owner or owners of cart-ways duly and legally established, or hereafter to be laid out by proper authority, to perform his or their highway labor and poll-tax, or either, upon said cart-way or cart-ways. And said supervisors, in their discretion, in all cases where any such cart-way exceeds one mile in length, may expend upon such cart-way any highway labor; poll-tax, road tax, road or bridge money, the same as upon any highway in said town. (1877, c. 96, § 1, as amended 1879, c. 4, § 1.)

CHAPTER 15.

RELIEF OF THE POOR.

§ 2. Relatives—Order of liability.

A step-father is not bound to maintain the children of his wife by a former marriage, unless he voluntarily assumes the relation of parent, and receives them into his family under circumstances such as to raise a presumption that he has undertaken to support them gratuitously. *In re Besondy*, 32 Minn. 385, 20 N. W. Rep. 366.

§ 3. County—Liability.

By Sp. Laws 1875, c. 74, paupers are town and city charges in Freeborn county. *Odegaard v. City of Albert Lea*, 33 Minn. 351, 23 N. W. Rep. 526; *Fenhoit v. County of Freeborn*, 29 Minn. 153, 12 N. W. Rep. 458.

§ 4. Residence.

See note to section 15, *infra*.

§ 6. County commissioners—Powers and duties.

[By Gen. Laws 1883, c. 36, the following proviso was added, applicable to Goodhue county only: "*Provided, further*, that if in the opinion of the county commissioners a limited amount of aid will suffice to enable a person or family, who would otherwise have to be sent to the poor-house, to be self-supporting, they may provide for the partial support of such person or persons in any way which they may deem proper."]

§ 10. County physician.

The board of county commissioners shall appoint one or more suitable and competent practicing physicians to be physician or physicians of the poor of said county, whose duty it shall be, upon direction of any county commissioner or the overseer of the poor of said county, to attend upon and prescribe for all sick poor persons requiring medical aid in charge of such overseer of the poor by proper authority; and also upon the written direction of any county commissioner of the said county to attend upon and prescribe for all sick poor persons in said county, requiring medical aid, who are at the time receiving or entitled to receive support or relief from said county, according to the provisions of this chapter. Such physician or physicians, upon acceptance of such appointment, shall continue therein during the pleasure of the board of county commissioners, unless he or they sooner resign the same; and he or they may be removed by said board at any time, and he or they shall receive such compensation for his or their services as shall from time to time be determined by said board. And in the event of the appointment of more than one such physician, the county commissioners shall prescribe, in the order of appointment, the district or territory in which such physician shall act; and such physician shall not, except in case of urgency, be required to act outside the limits of the district or territory in and for which he was appointed. (*As amended*, 1881, c. 35, § 1.)

The system contemplates that all professional medical attendance upon paupers of the county shall be rendered by the county physician, regularly appointed by the board of commissioners. *Bentley v. Commissioners Chisago Co.*, 25 Minn. 259.

***§ 12. Powers of single commissioner—Limit to relief.**

Whenever application is made to a county commissioner, by or on behalf of any person in his district, for public relief or support, and reliable information is furnished that such person is in a suffering condition from poverty, and requires public assistance or support, said commissioner shall inquire into the condition and necessities of such person, and if satisfied that such person is in actual need of, and is a proper subject for, public relief or support, and is legally settled in said county, or has no legal settlement in this state, said commissioner shall make an order in writing, signed by him officially, directed to the overseer of the poor of said county, that such person be received into the charge of the overseer of the poor, and furnished suitable support, which order shall contain or be accompanied by a statement of facts signed by such commissioner, setting forth the name, age, former occupation, place of residence, and length of residence in said county if a resident thereof, and the condition of such person; and said overseer shall, upon delivery to him of such order and presentation of such poor person, receive said poor person into his charge, and provide him with support at the expense of said county, until the further order of the board of county commissioners: *provided*, that if the commissioner to whom such application is made shall, upon such inquiry, be of opinion that only temporary and limited assistance to the extent hereinafter specified will be required by such person, and that it will be for the interest of the county to grant the same, he may, instead of making the order aforesaid, allow such person relief to the amount that he deems expedient, not exceeding the sum of twenty dollars to any one person or fam-

ily, and shall thereupon make a written certificate of such allowance, signed by him officially, in which he shall specify the sum allowed, and the name and residence of the person to whom it is granted; and upon presentation of such certificate at the office of the county auditor of said county, such person shall be entitled to receive an order, duly signed and sealed, upon the treasurer of said county, for the amount specified therein, to be paid out of the fund appropriated to the support and relief of the poor; but no county commissioner shall be authorized to grant such temporary relief to any one person or family to exceed the sum of twenty dollars, except by permission of the board of county commissioners of the county. In case such commissioner deems it unsafe to intrust such poor person with the expenditure of such sum of money, he may present his said certificate, and receive such order, and draw the money thereupon, and expend the same, or so much thereof as may be necessary, for the use of and in such a way as will be most beneficial to such poor person, accounting to the board for the manner of expending the same, and for any balance not so expended: *provided*, that such temporary and limited assistance shall not continue or be allowed for more than three months in any one year, [nor] exceed in the aggregate the sum of fifty dollars: *provided*, that in the performance of the duties required by this section such county commissioner shall receive the sum of three dollars per day for each day necessarily employed, and ten cents per mile for every mile necessarily traveled in the performance of such duty; but no commissioner shall receive pay for the performance of such duty for more than fifteen days' service, nor mileage to exceed one hundred miles in any one year. (*As amended 1877, c. 13, § 1; 1885, c. 263.*)

The powers of a single commissioner to bind the county for aid rendered to persons in his district are limited to the particular cases specified in this section. *Bentley v. Commissioners Chisago Co.*, 25 Minn. 259. He has no authority to bind the county, by contract with a physician, for professional attendance upon a pauper. *Id.*

§ 15. Sick persons—Support.

To maintain an action by one county against another, under this section, for expenditures made in and about the support and relief of a sick and infirm poor person, such person must have had at the time a legal settlement in the defendant county. To have gained such legal settlement, the person must have resided one year continuously in such county. *County of Lyon v. County of Murray*, 29 Minn. 240, 13 N. W. Rep. 43.

CHAPTER 16.

INTOXICATING LIQUORS.

§ 1. Licenses.

Gen. St. c. 16, and Gen. Laws 1887 cc. 5, 6, 7, 8, 81, do not apply to exclusively wholesale dealers, who sell to other dealers, so as to make it necessary for them to take out licenses. *State v. Orth*, 36 N. W. Rep. 103.

The charter of the city of Rushford has the effect to substitute the city council for the board of county commissioners, as respects the granting of licenses to sell, etc., within the limits of the city. *State v. Pfeifer*, 26 Minn. 175, 2 N. W. Rep. 474.

§ 2. License fee—Bond.

The commissioners have no right to grant licenses except on application in each case by the person desiring the license. The sum to be paid, and sufficiency of the bond, are to be passed upon by the board, and the duty cannot be delegated to any one. *Commissioners Hennepin Co. v. Robinson*, 16 Minn. 381, (Gil. 340.)