

# GENERAL STATUTES

OF THE

# STATE OF MINNESOTA

36

IN FORCE

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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.

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VOL. 2.

SUPPLEMENT, 1879-1888,

WITH

ANNOTATIONS AND GENERAL INDEX TO BOTH VOLUMES.

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or neglected, he shall cause it to be examined by the county physician, if there be one, and if not, then by a respectable practicing physician; and shall in no case enter the order in his journal, showing the child is admissible to this school, unless the physician making such examination shall certify in writing, under oath, filed in said court, that the child examined by him is in his opinion of sound mind, and has no chronic or contagious disease, and in his opinion has not been exposed to any contagious disease within fifteen days previous to such examination before the judge of probate; that a copy of such certificate shall be attached to the other papers provided by this act, to accompany each child to this school. (1885, c. 146, § 22.)

## CHAPTER 37.

### UNIVERSITY OF MINNESOTA.\*

#### \*§ 5. Board of regents—Officers—Term—Bonds.

The board of regents shall elect from the members of the board a president of the board and a recording secretary. They shall also elect a treasurer, who may or may not be a member of the board. All of said officers shall hold their offices during the pleasure of the board. And the president and treasurer, each before entering upon the duties of his office, shall execute a bond in the penal sum of fifty thousand dollars, with at least two sufficient sureties, to the state of Minnesota, to be approved by the governor, conditioned for the faithful and honest performance of the duties of his office according to law; which bonds, when so approved, shall be filed in the office of the secretary of state. (1868, c. 1, § 4, as amended 1872, c. 10, § 3, and 1881, *Ex. Sess.*, c. 46, § 1.)

#### \*§ 6a. Scandinavian language—Professorship.

There is hereby established a professorship of Scandinavian language and literature in the State University, with the same salary as is paid in said university to other professors of the same grade. (1883, c. 140, § 1.)

#### \*§ 6b. Same—Appointment.

It shall be the duty of the board of regents of the State University, as soon as practicable after the passage of this act, to appoint to said professorship some person learned in the Scandinavian language and literature, and at the same time skilled [in] and capable of teaching the dead languages, so called. (*Id.* § 2.)

#### \*§ 6c. Professor of military science—Commission.

That the governor of the state may commission the professor of military science and tactics of the State University, or at any seminary or college within this state maintaining military instruction and drill in its course of

\*For provisions for the destruction of "Minnesota state railroad adjustment bonds," belonging to the permanent university fund, and the issue of new bonds therefor, see Gen. Laws 1885, c. 227.

§ 1, c. 117, Gen. Laws 1879, provides certain appropriations for the institutions therein named (the university not included,) for the years 1879 and 1880, and the last clause reads as follows: "And there is also hereby appropriated for the current expenses of the State University, the income from the permanent university fund, and for such additional amount as may be necessary from collections of taxes levied specially for such purpose." The title is, "An act to appropriate money for the support of the several state institutions therein named for the years 1879 and 1880, and to prescribe the manner of disbursing all appropriations." See *ante*, c. 35, \*§§ 61-63.

agent shall be prescribed by said board, and shall include the visiting, as often and at such times as said board of control shall determine, any and all children placed in charge of any person by said board of control; to inquire into the condition of such children, and make such investigation as may be necessary in relation thereto, and report the same to said board of control; to investigate all applications to take such children, by adoption or otherwise, to such suitable persons who are willing to adopt, take charge of, or otherwise take and keep any children sent to said school; and to enter into a contract in writing, in behalf and under the instructions of said board of control, with the persons taking such child; and all such contracts shall contain a clause reserving to said board of control the right to withdraw the child from any person having him, when, in the opinion of the board, the welfare of the child requires it. The said agent, while acting as such, shall be paid his necessary traveling expenses by the treasurer of said board of control, after being allowed and certified by said board of control. (*Id.* § 18.)

**\*§ 201. Board—Biennial report—Compensation.**

The said board of control shall biennially report to the governor, legislature, and superintendent of public instruction, presenting a detailed statement of the operations of said institution for the two fiscal years preceding the regular session of the legislature, which shall include the report of the treasurer of said board of control of all receipts and disbursements in his office for the same period, and the report of the superintendent, for the same period, setting forth the condition of said school; the names of regular employes and the salary of each; the number of children who have received instruction; the average number during each year in the school; the discipline prescribed; the studies pursued; the books used; the expense *per capita* for average attendance; the expense *per capita*, estimating therein the expenses additional for those indentured; and such other information as he may deem important, or the governor or superintendent of public instruction may request. The members of said board of control shall be allowed the expenses necessarily incurred by them in the discharge of their official duties, and three dollars per day for their official services actually and necessarily performed, which shall be audited by the state auditor, and paid from the general fund. (*Id.* § 19.)

**\*§ 202. Application to judge of probate.**

That whenever the county commissioners of any county shall bring any child before the judge of probate for examination as to his alleged dependence, as provided in section sixteen of this act, they shall present to said judge an application in writing, which shall be filed in his office for such examination, which shall be signed by at least two of said commissioners, in which they shall certify that in their opinion the child named is dependent on the public for support, and that he has no parents against whom his support can be enforced. (*Id.* § 20.)

**\*§ 203. Adoption of pupils.**

That the superintendent, or agent, or board of control of the state public school, is hereby authorized to consent to the adoption of any child who has or shall become an inmate of said institution, by any person or persons, pursuant to the provisions of an act entitled "An act to provide for changing the names of minor adopted children, and of other persons," approved February twenty-sixth, A. D. one thousand eight hundred and seventy-six; and that on such adoption the said board of control shall cease to be the guardian of the child adopted. (*Id.* § 21.)

**\*§ 204. Examination by physician.**

That whenever, on the examination provided for in this act, the judge of probate shall determine that the child is dependent on the public for support,

study, and having not less than one hundred students on its drill-roll at any one term, to the rank of colonel of infantry; said commission, however, shall not entitle such professor of military science to command in the state militia. (1885, c. 220.)

**\*§ 10. Regents—Authority.**

As to the character of the corporation, the power of the regents to contract, give promissory notes, etc., and as to their power to sue and be sued, and the duty of persons dealing with them to take notice of their powers, see Regents of the University, etc., v. Hart, 7 Minn. 61, (Gil. 45.)

**\*§ 11. Experimental farm.**

[Sale authorized 1881, c. 101. Proceeds to be invested in a new farm. 1883, c. 13, § 1.]

[\*§§ 11a, 11b. For these sections, see *post*, page 1054.]

**\*§ 11c. Agricultural experiment station.**

It shall be the duty of the board of regents of the University of Minnesota, as soon as practicable after the passage of this act, to establish at said university an agricultural experiment station for the purpose of promoting agriculture in its various branches by scientific investigation and experiment, which station shall be under the control and supervision of the said board of regents, and of which the professor of agriculture shall be general superintendent. (1885, c. 209.)

**\*§ 11d. Experimental fruit-tree, etc., station.**

That an experimental station be, and hereby is, established on the state school farm at Owatonna, in this state, for the purpose of producing new and valuable varieties of fruit trees, thoroughly testing promising varieties we now have, and securing reliable reports in regard to fruit, forest, and ornamental trees best adapted to the state. (1887, c. 160, § 1.)

**\*§ 11e. Same—Supervision—Superintendent.**

That said station shall be under the general supervision of the board of regents of the State University, who shall, with the advice of the president and secretary of the State Horticultural Society, appoint a superintendent, who shall report to the board of regents as they may direct, and who shall report to the State Horticultural Society in person at each annual winter meeting thereof. (*Id.* § 2.)

**\*§ 11f. Same—Products.**

That all products of said station shall be the exclusive property of the state, and all surplus shall be disposed of as the board of regents may direct. (*Id.* § 3.)

**\*§ 11g. Same—Appropriation.**

That said board of regents is hereby authorized to set apart and appropriate from any fund at their disposal, for such purposes, such sum as they may deem advisable, not exceeding one thousand dollars per annum, for the total expenses of said station. (*Id.* § 4.)

**\*§ 14. Sale of liquor near university.**

It shall be unlawful for any person to sell or dispose of any spirituous, vinous, or malt liquors within a distance of one mile of the main building of the University of Minnesota, as now located in the city of Minneapolis. *provided*, that the provisions of this section shall not apply to that part of the city of Minneapolis lying on the west side of the Mississippi river. (1876, c. 80, § 1, as amended 1883, c. 71, § 1.)

The terms "dispose of" are meant to include other forms of disposal than indicated by the preceding words in the section, though consistent with them as respects its intent and purpose. *State v. Deusting*, 33 Minn. 102, 103, 22 N. W. Rep. 442.

**\*§ 16a. Additional appropriation.**

That the sum of fifty thousand dollars, or so much thereof as may be necessary, be, and the same is hereby, appropriated, in addition to the income of the permanent university fund, from the general revenue fund for the support of the State University for the fiscal year ending July thirty-one, one thousand eight hundred and eighty-eight, and annually thereafter. (1887, c. 247, § 1.)

## GEOLOGICAL AND NATURAL HISTORY SURVEY.\*

**\*§ 24a. Reports—Commission for publication.**

The governor, the secretary of state, and the state geologist are hereby created a commission for the printing and the publication of the reports of the regents of the university on the geological and natural history survey of the state. (1885, c. 228, § 1 †)

**§ 24b. Commission—Supervision of printing.**

It shall be their duty to supervise the printing of the final reports of said survey, and the engraving of the accompanying maps and illustrations, in such style and manner as they shall determine and judge best calculated to exhibit to the people of the state the natural resources of the state as required by the law creating the geological and natural history survey. (*Id.* § 2.)

**\*§ 24c. Same—Republication of reports of progress.**

They shall cause to be republished in the same manner the third, fourth, and fifth reports of progress of said survey at as early a date as practicable, in an edition of two thousand copies. (*Id.* § 3.)

**\*§ 24d. Reports—Edition—Distribution—Sale—Proceeds.**

The volumes of the final report of said survey, as they may be prepared by the state geologist from time to time, shall be issued in an edition of five thousand copies each, and shall be distributed in the name of the board of regents of the university, under the direction of the state geologist, to scientific and educational institutions, and to individuals, as follows: To the library of each chartered college and scientific institution in Minnesota, three copies each; to each normal school, three copies; to the libraries of the institute for the deaf and mute, the insane asylums, the state prison, and every public library in the state not otherwise designated, one copy each; to each county auditor, for the use of the county, one copy; to each of the offices in the capitol, one copy; to each member of the board of regents, three copies; to the library of the state university, two hundred copies; to the Historical Society and to the Minnesota Academy of Sciences, ten copies each; to each newspaper published in the state, one copy; to each senator and representative of the present legislature, one copy; to the governor and lieutenant governor, each one copy; to each assistant on the survey, who has furnished manuscript or illustrations published in the report, three copies; to the general office of each railroad that has furnished aid to the survey, three copies; to the library of each high school furnishing students fitted for the freshman class of the state university, one copy; to the state library of each state in the Union, one copy; to each state university and each college of agriculture and mechanic arts, one copy; to geologists and naturalists of Minnesota, fifty copies; to the geologists and naturalists of other states, two hundred copies; to other colleges and scientific institutions in the United States, one hundred copies; to foreign insti-

\* Provision for binding the remaining unbound portion of volume 1 of the Geological and Natural History Survey, 1885, c. 229.

† "An act relating to the publication of the report of the geological and natural history survey of the state." Approved March 7, 1885.

tutions and scientists, one hundred copies; and to the state geologist, twenty-five copies. The remainder shall be deposited in the state university, and shall be sold at such prices as the board of regents may determine; and the proceeds of such sales shall be used by said regents for the purchase of apparatus and books for the survey, and, after its completion, for the departments of natural science at the state university. (*Id.* § 4.)

**\*§ 24e. Same—Expense—Payment.**

The expense of printing, engraving, binding, and distribution of said reports shall be paid out of any moneys not otherwise appropriated in the state treasury, on warrants of the state auditor, approved by the governor and secretary of state. (*Id.* § 5.)

**\*§ 24f. Same—Commissioners' compensation.**

The commissioners hereby appointed shall perform the duties herein designated without further compensation than the payment of the actual expenses incurred in the discharge thereof. (*Id.* § 6.)

**\*§ 25a. Minerals—Discovery—Duty of state geologist.**

It shall be the duty of the state geologist to make practical and actual tests, by drilling or digging or other excavations in the earth, such as he shall deem best suited to accomplish the purpose of this bill, for the discovery of any of the hidden mineral resources of the state, such as iron, copper, silver, gold, coal, gas, coal oil, common salt, or any other valuable material that he may deem likely to exist in any of the rock *strata* of this state. (1887, c. 226, § 1.)

**\*§ 25b. Same.**

In determining the localities at which such testing and exploring shall be done, he shall be guided by such geological facts as he may possess or obtain, which may indicate the existence of any of the substances of which it is the purpose of this act to discover. He shall also be guided by the proportionate amount of money that the owner or owners of the land on which such explorations may be proposed shall contribute to pay the cost of such exploration. (*Id.* § 2.)

**\*§ 25c. Same—State geologist—Report.**

It shall be the duty of the state geologist to report at once to the board of regents all discoveries either of economic or scientific interest to the state that may be made by such testing and exploration; such report shall be published by the board of regents in the same manner as now provided for the publication of the annual reports of the geological and natural history survey of the state, and shall be paid for out of the same funds: *provided*, that any important mineral discoveries or other scientific contributions to the geological and natural history survey that the said state geologist may deem necessary for immediate publication shall not be suppressed until the regular report of the board of regents, but shall be issued from time to time under the direction of said state geologist. (*Id.* § 3.)

**\*§ 25d. Same—Appropriation—Favor to mining companies forbidden.**

That the sum of five thousand dollars for the year A. D. one thousand eight hundred and eighty-seven, and the sum of five thousand dollars for the year A. D. one thousand eight hundred and eighty-eight, is hereby appropriated out of any moneys not otherwise appropriated for the purpose of defraying the expenses of said test. The investigations provided for in this act shall not be conducted in the interest of any mining company or corporation. (*Id.* § 4.)

## SALT SPRINGS AND PEAT DEPOSITS.

**\*§ 26a. Indemnity lands—Transfer to university — Sale—Proceeds.**

That the lands granted by congress to this state by an act entitled "An act granting lands to the state of Minnesota in lieu of certain lands heretofore granted to said state," approved March three, one thousand eight hundred and seventy-nine, be, and the same are hereby, transferred to the custody and control of the board of regents of the University of Minnesota, which lands the said board may sell in such amounts as they may deem most expedient and beneficial, the proceeds thereof being held in trust by them, and only disbursed in accordance with the law ordering a geological and natural history survey of the state; and the said board shall make report of their doings in the premises as provided by law. (1885, c. 215.\*)

## FARMERS' INSTITUTES.

**\*§ 32. Appropriation.**

That the sum of seven thousand five hundred dollars per year, for the years one thousand eight hundred and eighty-seven and one thousand eight hundred and eighty-eight, be, and the same is hereby, appropriated out of any money in the state treasury not otherwise appropriated, for the maintenance of farmers' institutes, to be held in the several counties of this state as hereinafter provided. (1887, c. 261, § 1.†)

**\*§ 33. Same—Expenditure.**

That not to exceed one hundred dollars of said appropriation shall be expended in the holding of any one such institute, such expenditure being only for the legitimate and necessary expenses of the institute, including the board and traveling expenses of the instructors, and a reasonable compensation for their services: *and provided*, that none of these moneys shall be expended for hall rent, fuel, lights, local advertising, or compensation for services of instructors other than those regularly employed. (*Id.* § 2.)

**\*§ 34. Board of administration—Superintendent.**

That the president and secretary of the board of regents of the University of Minnesota, the president and secretary of the State Farmers' Alliance, the president and secretary of the State Dairymen's Association, the president and secretary of the State Agricultural Society, and the president of the Horticultural Society, of this state, are hereby constituted a board of administration to superintend the execution of this act, and they are hereby empowered, by a majority vote thereof, to appoint some suitable and competent person as state superintendent of farmers' institutes, who, upon filing his acceptance with them, shall be authorized to receive applications for the holding of farmers' institutes in the several agricultural counties of the state; to appoint such institutes as shall appear advisable; to engage instructors and make proper announcements; and to prepare a programme of exercises, and superintend the holding of such institutes, under the general direction of said board of admin-

\*The preamble to the act is as follows: "Whereas, the state lands, known as 'State Salt Lands,' were by an act approved March 10, 1873, c. 133, General Laws of 1873, transferred to the custody and control of the board of regents of the University of Minnesota, to be by said regents sold and the proceeds thereof held in trust by them and disbursed in accordance with the law ordering a geological and natural history survey of the state; and whereas, it was found that certain parcels of such state salt lands had been otherwise disposed of by the United States to actual settlers upon such lands, for which indemnity lands have since been granted to this state by act of congress approved March 3, 1879, therefore be it enacted," etc.

†"An act to establish and maintain farmers' institutes in Minnesota." Approved March 2, 1887.

istration; also to receive, examine, and report upon all bills for expenses or services that are payable from said appropriation, and at the end of each fiscal year to make a detailed report of all farmers' institutes held under his direction as such superintendent, to said board of administration. (*Id.* § 3.)

**\*§ 35. Superintendent's salary—Payment of expenses.**

That the expense of such institutes, together with the salary of said superintendent, which is hereby fixed at one thousand five hundred dollars per year, and the necessary expenses of his superintendence, shall be paid out of said institute fund, by the state treasurer, upon warrants issued by the state auditor, which warrants shall only be drawn upon the presentation and filing of an itemized statement of expenditures, the accounts of which must be sworn to by the parties claiming compensation, and approved by the said superintendent and by the officers of said board of regents. (*Id.* § 4)

**\*§ 36. Sessions.**

That in the appointment of such farmers' institutes they shall be held, so far as possible, at times and in places that shall be most convenient to the farmers of the state; that they shall continue for not less than one nor more than three days each, with morning, afternoon, and, where practicable, evening, sessions; and that they shall be free to the public; also, that they shall consist of practical lectures upon topics pertaining to the farm and home, with essays, addresses, discussions, and illustrations of such methods and practices as possess true merit and are adapted to the conditions of our agriculture; the sole object and purpose of these institutes being to disseminate practical knowledge upon questions pertaining to agriculture, horticulture, stock, and dairy farming, with the least expense or inconvenience to the people of the state. (*Id.* § 5.)

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## CHAPTER 38.

### PUBLIC LANDS.

#### TITLE 1.

##### SCHOOL LANDS.

**§ 2. Land commissioner — Powers and duties — Performance by deputy-auditor.**

The state auditor shall be *ex officio* commissioner of the land-office. He shall have the general charge and supervision of all lands belonging to the state, of all lands in which the state has an interest, or which are held in trust by the state, and may superintend, lease, sell, and dispose of the same in such manner as shall be directed by law. In the absence or inability of the auditor, the deputy state auditor shall perform the several duties required of the auditor in his capacity as land commissioner. (*As amended* 1885, c. 102, § 1.)

The state auditor is here "charged *eo nomine* with the duties pertaining to the land-office. He cannot be commissioner without being auditor, nor auditor without being commissioner. While auditor, he cannot avoid the charge and supervision of the lands. The duty of that charge and supervision is cast upon his department. The fact that the statute designates him commissioner of the land-office, and that, in transacting the business of the office, he may, though we do not think it essential that he should, so designate himself, does not affect this, nor make the commissioner of the land-office an independent officer." *State v. Whitcomb*, 28 Minn. 50, 8 N. W. Rep. 902.

See *State v. Galusha*, 26 Minn. 238, 2 N. W. Rep. 939, 3 N. W. Rep. 350.