

# GENERAL STATUTES

OF THE

# STATE OF MINNESOTA

36

IN FORCE

JANUARY 1. 1889.

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COMPLETE IN TWO VOLUMES.

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VOL. 2.

SUPPLEMENT, 1879-1888,

WITH

ANNOTATIONS AND GENERAL INDEX TO BOTH VOLUMES.

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## CHAPTER 6.

## STATE OFFICERS.\*

## TITLE 2.

## SECRETARY OF STATE.†

**\*§ 11a. Publication of constitutional amendments.**

Whenever any constitutional amendment or amendments are proposed by the legislature of this state to be submitted for adoption or rejection by the people thereof, it shall be the duty of the attorney general to critically examine the same and prepare and furnish to the secretary of state, at least four months preceding any election at which the same is or are to be voted upon, a synopsis thereof, containing the original article or section and the proposed amendment. (1887, c. 157, † § 1.)

**\*§ 11b. Synopsis and opinion of attorney general.**

It shall be the duty of the secretary of state, before any election at which any amendment or amendments are to be voted upon, to cause the synopsis and opinion of the attorney general provided for in section one of this act, to be printed and published in the newspapers printed at the capital of the state, and also one paper in each county in the state to be designated by him, for a period of once in each week for three successive weeks immediately preceding such election: *provided*, that when more than one amendment is proposed the same shall not be published separately, but shall be published in one article. (*Id.* § 2.)

**\*§ 11c. Same to be printed in bill form.**

The secretary of state shall also cause to be printed in bill form such number of copies of said synopsis of the proposed constitutional amendment or amendments provided for in section one as shall be sufficient to furnish at least six copies for each voting precinct in the state, and shall forward the same to each county auditor at least six weeks preceding any such election. (*Id.* § 3.)

\*For provisions governing state board of medical examiners, see *post*, page 919. As to state board of dental examiners, see *post*, page 921. As to state board of pharmacy, see *post*, page 923.

For provisions relating to the commissioners of the state park at Minnehaha Falls, see Gen. Laws 1885, c. 129; *post*, page 429.

As to bonds of state officers and approval thereof, see *post*, page 106; same as to county officers, see *post*, page 142. Trust companies as sureties on official bonds, see *post*, page 407.

As to the appointment of a commission to revise and codify probate laws, see Gen. Laws 1887, c. 159.

Duty of the governor in relation to relinquishing lands within Fort Ripley military reservation, see *post*, page 484. Duties in relation to approving official bonds, see *infra*, page 106.

Annual appropriation, see Gen. Laws 1887, c. 222, § 1.

†By Laws 1887, c. 230, the secretary of state is authorized to contract with the West Publishing Company for the publication of the Minnesota Reports for eight years, the Reports to be of the former quality and description and to be sold at two dollars a copy. The copyright is to be taken out in the name of the secretary of state for the benefit of the state.

The secretary of state is authorized to furnish to the judge of probate and the clerk of the district court of Benton county the first 33 volumes of Minnesota Reports. Gen. Laws 1887, c. 180.

For the duties of the secretary of state in relation to the printing of the school laws, see Laws 1887, c. 229, *post*, page 444. \*§§ 57d, 57e. For his duties in respect to the publication and distribution of legislative manuals, see *supra*, c. 5.

For the duty of the secretary of state to cause to be made a map of lands donated to the United States for a fish hatchery, see Gen. Laws 1887, c. 162; *post*, c. 38.

‡By § 7, all acts or parts of acts in conflict therewith are repealed.

**\*§ 11d. Distribution to towns.**

It shall be the duty of the county auditor of each county, immediately upon the receipt of the bills provided for in section three, to forward to each of the town clerk in the county the number thereof provided for in this act. (*Id.* § 4.)

**\*§ 11e. Notices to be posted.**

It shall be the duty of each town clerk to post said notices at least twenty days before the election in the same manner as the register lists of voters are required to be posted: *provided*, that there shall be at least one of said notices posted at each polling place at the day of the election. (*Id.* § 5.)

**\*§ 11f. Penalty for neglect.**

If any of the officers named in this act willfully or negligently fail to performd by its provisions, he or they or either one of them shall, upon conviction, be fined in a sum not exceeding one hundred dollars nor less than twenty-five dollars, and in default of payment shall be committed in the county jail until such fine is paid, not exceeding thirty days. (*Id.* § 6.)

**\*§ 12. Clerk—Salary.**

The secretary of state is hereby empowered to employ in his office a clerk, who shall receive for his services twelve hundred dollars per annum, to be paid out of the state treasury as other clerks of the state department are paid. (1876, c. 96, § 1, *as amended* 1883, c. 148, § 1.)

**\*§ 12a. Recording clerk—Salary.**

The secretary of state is hereby empowered to employ in his office a recording clerk, who shall receive for his services the sum of one thousand dollars per annum, and the sum aforesaid is hereby annually appropriated out of any moneys in the treasury belonging to the general revenue fund for the payment of said salary. (1883, c. 147, § 1, *as amended* 1885, c. 290.)

## TITLE 3.

## AUDITOR.\*

**\*§ 14a. Supervision of state banks.**

All duties now required to be performed by, and all responsibilities now imposed upon, the auditor of this state, under the laws regulating the business of banking, shall hereafter be performed by the public examiner, under the title *ex-officio* of superintendent of banks, and all reports and documents now on file in the state auditor's office, pertaining to banks, now in existence, are hereby transferred to the custody of the public examiner. (1887, c. 183.)

**§ 23. (Sec. 21.) Deputy—Bond—Duties.**

He may appoint a deputy, whose appointment shall be evidenced by a certificate under the official seal of the auditor, and continue during his pleasure.

\*By Laws 1885, c. 96, title 3 is "amended by striking out the words 'chief clerk' and 'clerk' where the same occur in said title, and inserting the word 'deputy' in lieu thereof." See §§ 23, 24, *post*.

For the duties of the auditor in relation to the tax for the redemption of state bonds and coupons, see Gen. Laws 1883, c. 130, *post*, section 44f.

As to mutilated, lost, and destroyed bonds, orders, and warrants, see *post*, c. 124.

In relation to the appropriation of a portion of the tax paid by fire insurance companies to municipalities having organized fire departments, and the auditor's warrants therefor, see Laws 1885, c. 187; *post*, page 369.

For compensation of commissioners to revise probate laws, and auditor's warrants therefor, see Gen. Laws 1887, c. 159.

As to insurance of public buildings, see *post*, c. 85.

Said deputy, previous to entering upon the duties of his appointment, shall give bond, with two or more sureties, in the penal sum of ten thousand dollars, payable to the state of Minnesota, and conditioned for the faithful performance of the duties of his office. In case of the absence or inability of the auditor, the deputy shall perform the several duties required of the auditor. (*As amended* 1885, c. 96.)

**\*§ 23a. Auditor's book-keeper—Salary.**

That the state auditor is authorized to employ a book-keeper at a salary of fifteen hundred dollars per annum. (1883, c. 146, § 1.)

**§ 24. (Sec. 22.) Violation of duty by auditor or deputy—Penalty.**

Any auditor of state or deputy who violates any of the provisions of this title, shall, on conviction thereof, be punished by imprisonment in the state prison for a period of not more than ten years. (*As amended* 1885, c. 96.)

TITLE 4.

TREASURER.\*

**§ 34. (Sec. 25.) Shall keep account of receipts and disbursements—Receipts.**

The treasurer shall keep an accurate account of the receipts and disbursements at the treasury, in books provided for that purpose at the expense of the state, specifying the names of persons from whom received, to whom paid, on what account the same is received or paid out, and the time of such receipt or payment. And for all payments into the state treasury by the treasurer of any of the counties of the state he shall issue duplicate receipts, one of which shall be sent to the treasurer, and the other to the auditor of the county. (*As amended* 1881, c. 12, § 1.)

**§ 37. (Sec. 28.) Shall make and publish report—Board of auditors.**

He shall report to each branch of the legislature on the third day of their session, and to the governor whenever by him required, the state of the public accounts and of the state and school funds, plainly exhibiting the amount by him received from every source, and all and singular the items thereof, the amount paid out during the preceding year, and each and every item thereof, and where such funds are, and the balance remaining in the treasury, and each and every item thereof; and shall once in two months publish, in one or more of the daily newspapers printed and published at the capital of the state, a condensed statement of the condition of the several funds in his hands belonging to the state at the date of such publication; and there is hereby created a board of auditors of the state treasury and the funds thereof, consisting of the governor, secretary of state, and attorney general, whose duty it shall be to carefully examine and audit the accounts, books, and vouchers of the treasurer, and to count and ascertain the kinds and description and amounts of funds in the treasury as belonging thereto, at least four times in each year, without previous notice to the treasurer, and make report thereof, and of their acts and doings in the premises, to each branch of the legislature as early as the third day of their session; and also to witness and attest the transfer and delivery of accounts, books, vouchers, and funds by any outgoing treasurer to

\*As to payments to be made to municipalities having organized fire departments, see Laws 1885, c. 187, *post*, page 369.

his successor in office, and report the same in their report aforesaid next after the term of office of any treasurer shall expire: *provided*, that all funds belonging to the permanent school fund, or the permanent university fund, or any other permanent fund of any state institution, shall, as soon as the same amounts to the sum of one thousand dollars, be at once invested in interest-bearing bonds, as provided in chapter thirty-three of the laws of 1873.\*

**(2) Shall deposit funds in banks.**

All the funds of the state shall be deposited in one or more banks located in the state immediately on their receipt by the treasurer, in the name of the state of Minnesota; such bank or banker shall be selected by the treasurer, and shall be required, prior to the receipt of any such deposits, to give to such treasurer, for the use of the state of Minnesota, a personal bond, to the satisfaction of such treasurer and said board of auditors, in at least double the amount to be so deposited, and with at least five sureties, who shall all justify in the manner provided for the justification of sureties on bonds in civil actions, as security for the amount so to be deposited with such bank or banker: *provided*, however, that the taking of such security shall not be construed in any manner to release the said treasurer or his bondsmen from their liability to the state for any money so deposited. And the said board of auditors shall have authority to require the said treasurer to call for a new or an additional bond whenever in their opinion it is necessary for the complete protection of all the funds so deposited; but, whenever a new bond is taken under the provisions of this section, the original bond, and the rights and liabilities of the parties thereto, incurred or existing at or prior to the time of the approval and acceptance of such new bond, shall not in anywise be affected or impaired. (*As amended 1883, c. 155, § 1; 1885, c. 41, § 1.*)

**(3) Rate of interest.**

Such bank or banker shall pay to the treasurer for the use of the state of Minnesota such fair and equitable interest on all daily balances in their hands belonging to the state as may be agreed upon between such bank or banks and the treasurer, which interest shall in no case be at a less rate than three per cent. (*As amended 1885, c. 41, § 2.*)

**(4) Shall keep accurate books.**

The treasurer shall keep the books of the treasury department by the system known as double entry, and in such a manner as to show plainly and accurately every receipt and disbursement daily, and on the same day on which such receipt and disbursement or either of them actually occurs; and no unfinished business shall be kept or entered upon loose memoranda or strips of paper; and the said treasurer's cash book shall be balanced plainly and accurately every business day; and every payment by the state treasury shall be made on the warrant of the state auditor, and by check on a depository of state funds, and such check shall bear on its face the name of the payee and the number of the warrant for which drawn, and shall be drawn to the order of the payee. (*As amended 1874, c. 11, § 1.*)

**\*§ 43. Crediting receipts—Repeal.**

That section three of chapter nineteen, General Laws one thousand eight hundred and seventy-two, and all acts and parts of acts inconsistent with this act are hereby repealed. (1885, c. 214, § 5.)

**\*§ 43a. General revenue fund.**

The state treasurer is hereby authorized and directed to transfer to the general revenue fund all moneys in his hands standing to the credit of the state

\*Gen. St. c. 38, § 44.

institution fund, and all moneys hereafter received into the treasury in pursuance of law from railroad, telegraph, and other companies in lieu of taxation, and all moneys received from delinquent taxes, and all moneys received in excess of the amount required for the purposes for which the same were levied, together with such sums as may be received from the United States in payment of war claim, shall be placed to the credit of the general revenue fund. (1885, c. 214, § 1.)

**\*§ 43b. Appropriations payable out of same.**

All appropriations heretofore made for any or either of the state institutions payable from said state institutions fund shall be payable out of the general revenue fund. (*Id.* § 2.)

**\*§ 43c. State forestry fund.**

The state treasurer is hereby authorized and directed to transfer to said general revenue fund all moneys in his hands standing to the credit of the state forestry fund, not required to pay the claims against said fund now on file in the office of the state auditor. (*Id.* § 3.)

**\*§ 43d. Same.**

That the state treasurer be and hereby is authorized and directed on the first day of January in each year to transfer to the general revenue fund all sums in his hands standing to the credit of said forestry fund, not required to pay the claims against said fund, that may on said day be on file in the office of the state auditor, or to redeem warrants issued by said auditor on said fund. (*Id.* § 4.)

**\*§ 44. Use of state funds.**

The state treasurer is authorized to borrow and use temporarily, from funds having an available balance in the treasury, two hundred thousand dollars, or so much thereof as may be necessary to supply any deficiency that may exist in the revenue fund: *provided*, it will not impair said respective funds so that they cannot meet all demands as the exigencies may require: *and provided further*, that the interest received on deposits of permanent trust funds in banks shall be apportioned to the proper current fund. (1874, c. 9, § 1, *as amended* 1881, c. 6, § 1; 1881, *Ex. Sess.* c. 39, § 1, *and* 1883, c. 10, § 1.)

**\*§ 44a. Bonds to be destroyed.**

Whenever the board of auditors of the state treasury, created by chapter eleven of the General Laws of one thousand eight hundred and seventy-four, shall find that the sinking fund holds any bonds of the state which have been redeemed by the state treasurer, they shall carefully compare such redeemed bonds with the register kept in the treasurer's office, and proceed to have them destroyed, certifying in said register how and when destroyed. (1879, c. 90, § 1.)

**\*§ 44b. Transfer of state funds.**

That the state treasurer be and is hereby authorized to transfer from the forestry fund the sum of twenty-five thousand dollars to the sinking fund, and to use the amount so transferred for the redemption of the outstanding bonds of the loan of one thousand eight hundred and seventy-three. And the state treasurer is also by this act authorized to transfer to the redemption fund created by the act approved January twelfth, one thousand eight hundred and eighty-three, any balances there may be in the sinking fund, the seed-grain sinking fund, and the interest fund, after redeeming the balance of the loan of one thousand eight hundred and seventy-three, and the coupons on the bonds so redeemed, and the coupons on the bonds of the loan of one thou-

sand eight hundred and seventy-eight, authorized to be refunded by said act of January twelfth. (1883, c. 144, § 1.)

**\*§ 44c. Loan to meet extraordinary expenses.**

That the governor, state auditor, and state treasurer be and they hereby are authorized to borrow, on the credit of the state, the sum of two hundred and fifty thousand dollars, in such amounts as may be required to take up and cancel all outstanding bonds heretofore issued under chapter ninety-three, General Laws eighteen hundred and seventy-eight, amounting to sixty thousand dollars, and to meet extraordinary expenditures of the state incurred under appropriations heretofore made, and to be hereafter made, payable from the revenue fund, at a rate of interest not exceeding four and one-half per cent. per annum, payable semi-annually in either the city of New York or St. Paul, which money, so borrowed, shall be repaid at any time within five years, at the option of the state; and, except such amount as may be required to redeem said outstanding bonds, said money shall be placed to the credit of the general revenue fund of the state. (1883, c. 130, § 1.)

**\*§ 44d. Minnesota revenue bonds.**

The loan mentioned in the first section of this act shall be made upon state bonds, with coupons attached, which bonds shall be signed by the governor and attested by the secretary of state, under the great seal of the state, and countersigned and registered by the state auditor; and the coupons thereto attached shall have the names of governor and secretary of state thereon, and it shall be the duty of the governor and state auditor to cause to be prepared for such purpose bonds of the state to be styled "Minnesota Revenue Bonds," which shall be of the denomination of one thousand dollars each, and shall on their face be made payable on or before five years from their date in the city of New York or St. Paul with interest payable in the city of New York or St. Paul semi-annually at a rate not exceeding four and one-half per cent. per annum, and shall have coupons attached for such interest, and shall pledge the faith and credit of the state to the payment thereof. (*Id.* § 2.)

**\*§ 44e. Interest—How paid.**

Whenever the interest on the above mentioned bonds shall become due the same shall be paid by the state treasurer upon presentation of the coupons at such place in either the city of New York or St. Paul, as the treasurer shall designate. (*Id.* § 3.)

**\*§ 44f. Redemption fund.**

For the purpose of providing a fund for the redemption of said bonds and coupons, the state auditor is hereby authorized and required for four consecutive years to levy an annual tax of one-fifth of one mill on the dollar of the taxable property of the state, which tax, when collected, shall be known as the "redemption fund," and shall, until said bonds and coupons are all redeemed, be applied solely to the payment thereof, in the manner following, viz., whenever the amount thereof shall exceed a sum sufficient to pay the coupons falling due at the next semi-annual period of payment, then such excess remaining, after setting apart sufficient for the payment of such coupons, shall be used and paid for the redemption of so many of said bonds as the same will redeem. When said bonds and coupons are all redeemed, the residue of said fund and all subsequent collections of said tax shall be transferred to the general revenue fund of the state. For the purpose of providing for the payment of the coupons which may fall due before the collection of any of said tax, the state auditor is hereby authorized to distribute to the said fund from the delinquent state taxes reported as collected by the several counties of the state in settlement, in eighteen hundred and eighty-three, a

sum sufficient to pay said coupons. All moneys received and distributed under the provisions of this act, and all payments made, or collections received, on account of the so-called seed grain laws of eighteen hundred and seventy-seven and eighteen hundred and seventy-eight are hereby appropriated for the redemption of the said bonds and coupons authorized by this act, and shall be distributed to and constitute such redemption fund. (1883, c. 130, § 4.)

**\*§ 44g. Appropriation.**

The sum of three hundred dollars, or so much thereof as shall be necessary, is hereby appropriated for the purpose of carrying out the provisions of this act. (*Id.* § 5.)

**\*§ 44h. Temporary loans.**

That the governor, auditor, and treasurer are authorized, whenever in their judgment it becomes necessary, in order to meet the current demands in the revenue fund for the payment of appropriations from said fund, to make agreements or contracts with banks or other corporations or persons, to pay warrants issued against the revenue fund in payment of any claim or demand upon said fund for the payment of which the legislature has made or hereafter may make an appropriation, and to pay interest on such warrants until the state treasury can redeem the same, at a rate not exceeding six per cent. per annum: *provided*, that the amount of such warrants outstanding at any time shall not exceed one hundred thousand dollars. (1887, c. 215, § 1.)

**\*§ 44i. Appropriation for interest thereon.**

That the sum of six thousand dollars, or so much thereof as may be necessary, is hereby annually appropriated from the general revenue fund for the purpose of paying interest on loans provided for in section one of this act. (*Id.* § 2.)

TITLE 5.

ATTORNEY GENERAL.\*

COUNSEL FOR PROSECUTIONS CONCERNING "INDEMNITY LAND."

**\*§ 55a. Counsel for "indemnity land" prosecutions.†**

That the governor of this state be and he is hereby authorized and directed to appoint and employ, in the name and at the expense of the state, counsel of suitable learning and ability, to prosecute in behalf of such of the aforesaid settlers as shall desire his services, the said actions to a final determination, to institute such other actions in respect to the title to said "Indemnity Land" in behalf of the settlers thereon as they shall desire and as shall in his opinion possess merit, and to bring about in the speediest possible manner a final settlement of the question of title to all of the said "Indemnity Land:" *provided*, that said cases shall, if found practicable by the appointee herein provided for, be tried and submitted in three groups, according to the questions involved, and each group of said cases shall be considered as one action in allowing compensation to such appointee for said services: *and provided*,

\*See an act to provide for the better publication of proposed constitutional amendments. Laws 1887, c. 157, § 1; *ante*, §§ 11a-11f.

†In relation to the approval of bonds of state officers, see *post*, §§ 154-158; same as to county officers. see *post*, page 142.

‡The first five sections of this act consist of explanatory preambles relative to certain lands in Traverse and other counties known as "indemnity lands," the title to which was in dispute between the United States government and certain railroad companies, and to suits instituted by settlers in relation thereto, etc.



that such appointee shall present for approval his bill for the aforesaid services to the governor, and the governor shall submit the said bill, with a report thereon, to the next legislature of this state for its allowance. (1887, c. 171, § 6.)

## TITLE 6.

## LIBRARIAN.\*

**\*§ 61a. Annual appropriation fund of the state library.**

There shall be and hereby is appropriated out of any moneys not otherwise appropriated, the sum of two thousand dollars for the year one thousand eight hundred and eighty-five, and every year thereafter, to be known as the annual appropriation fund of the state library, and be used for its benefit. (1885, c. 258, § 1.)

**\*§ 61b. Contingent fund of state library.**

There shall be and hereby is appropriated out of any moneys not otherwise appropriated, the sum of three hundred dollars, for the year one thousand eight hundred and eighty-five, and every year thereafter, to be known as the contingent fund of the state library, and to be used for its benefit. (*Id.* § 2.)

**\*§ 61c. Appropriation for binding books.**

That there is hereby appropriated out of any moneys not otherwise appropriated, the sum of five hundred dollars, the same being appropriated for the purpose of binding books in state library. (*Id.* § 3.)

**\*§ 61d. Appropriation for insurance.**

That there be and hereby is appropriated the sum of five hundred and twenty-five dollars out of any moneys not otherwise appropriated, to pay the premium on seventeen thousand five hundred dollars insurance on the state library. (*Id.* § 4.)

## TITLE 8.

## JANITOR AND CAPITOL EMPLOYES.

**\*§ 66. Governor to appoint certain officers.**

The governor shall appoint or employ the following persons to attend to the safety, cleanness, and comfort of the capitol building and capitol grounds, and perform such manual labor and duties as the various state officers therein may require from time to time:

*First.* A janitor, who shall have the care and oversight of the building and its contents generally, and be made responsible for the movable property and fixtures, and for the cleanness, quiet, and safety of the building, and the care and neatness of the grounds, fences, and shrubbery. He shall have the power and authority of a policeman, and be authorized to make arrests, if necessary to enforce order and quiet in and about the building, and whose salary shall be twelve hundred dollars per annum. One messenger, such messenger to perform the duties appertaining to that position, and to aid the janitor, at a compensation of not more than fifty dollars per month. A chief engineer, who shall have the control and regulation of the steam-heating apparatus, gas fixtures, plumbing, etc., alter and repair the same when necessary, attend to the heating and ventilation of the building, and render such other services, when not so engaged, as he has opportunity, in the care, safety, and quiet of

\*See Laws 1879, c. 89, *post*, p. 759, relative to the duty of the librarian to furnish certified copies of documents and judicial decisions.

the building. During the period when the steam-heating apparatus is not being operated, he shall be the night-watchman, and shall have the power and authority of a policeman, and be authorized to make arrests, if necessary to enforce order and quiet in and about the building, whose salary shall be twelve hundred dollars per annum.

*Fourth.* A fireman for day duty, to be employed as such during the period when the steam-heating apparatus is in use; during the remainder of the year he shall act as laborer to do such work and services about the building and grounds, under the supervision of the janitor, as occasion may require, and to make himself generally useful, whose salary shall be sixty dollars per month.

[*Fifth.*] A night-fireman and assistant engineer, to be employed only during the period when the steam-heating apparatus is in use, and who shall be during that period night-watchman, and while so acting shall have the power and authority of a policeman, and be authorized to make arrests, if necessary to enforce order and quiet in and about the building, and whose salary shall be seventy-five dollars per month for not more than four months in each year.

The hours of service of the above employes are to be so adjusted that one or more of them shall be on duty during every portion of the day and night to care for the safety of the building from fire and robbery, and render such other services as the occasion demands. The governor shall prepare rules and instructions fixing the details of the service about the building to carry out the above provisions. (1879, c. 100, § 1.)

#### RAILROAD AND WAREHOUSE COMMISSION.\*

Under \*§§ 75, 76, requiring railroads to furnish facilities for transportation, and providing penalties for extortion and discrimination, see note to c. 124, \*§§ 7, 8.

#### \*§ 77a. Application of the act—Exception—"Railroad" defined.

(a) That the provisions of this act shall apply to any common carrier or carriers engaged in the transportation of passengers or property wholly by railroad, or partly by railroad and partly by water, when both are used under a

\*"An act to regulate common carriers, and creating the railroad and warehouse commission of the state of Minnesota, and defining the duties of such commission in relation to common carriers." Approved March 7, 1887. Gen. Laws 1887, c. 10.

See Gen. Laws 1875, c. 103; Gen. St. 1878, c. 6, tit. 8.

As to elevators, warehouses, and inspection and handling grain, see *post*, c. 124, page 858. Gen. St. 1878, c. 124, § 7 *et seq.*

For provisions in relation to railroad companies desiring to increase their capital stock, see Gen. Laws 1887, c. 265; *post*, page 327.

The following is the act, approved March 5, 1885, entitled "An act for the regulation of railroad companies." Gen. Laws 1885, c. 188.

§ 1. HOW CONSTITUTED. There is hereby created a commission to be styled "railroad and warehouse commissioners," to consist of three suitable persons, qualified electors of the state of Minnesota, the decision of a majority of whom shall be considered the decision of the commissioners on all questions arising for their consideration, who shall hold their office for a period of two years and until their successors are appointed and qualified, and who shall be appointed by the governor, and one of whom shall be of the leading opposite political party to the governor.

§ 2. APPOINTMENT OF COMMISSIONERS—VACANCIES. Within thirty days after this act shall take effect the governor shall appoint two persons, who, with the present railroad commissioner, shall constitute such commission, and who shall hold their office until the first Monday in January, A. D. one thousand eight hundred eighty-seven, and until their successors are appointed and qualified. The governor shall, after and within thirty days of the organization of the legislature, appoint three railroad commissioners to succeed those whose terms have expired in January, A. D. one thousand eight hundred and eighty-seven, who shall hold their offices for two years, and until their successors are appointed and qualified. And any vacancy which shall occur in the office of any railroad commissioner shall be filled by the governor for the remainder of the term, when a successor shall be appointed for the full term of two years.

# MINNESOTA STATUTES 1888 SUPPLEMENT

6.]

STATE OFFICERS.

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common control, management, or arrangement for a carriage or shipment from one place or station to another, both being within the state of Minnesota: *provided*, that nothing in this act shall apply to street railways, or to the carriage, storage, or handling by any common carrier, of property, free, or at

§ 3. **QUALIFICATIONS—REMOVALS—OATH—BOND.** No person shall be appointed as such commissioner who is at the time of his appointment in any way connected with any railroad company, or who is directly or indirectly interested in any stock, bond, or other property of a railroad company, or is in the employment of any railroad company or warehouseman; and no person appointed as such commissioner shall during the term of his office become interested in any stock, bond, or other property of any railroad company or warehouse, or in any manner be employed by or connected with any railroad company or warehouse. The governor shall have power to remove any such commissioner at any time upon sufficient evidence of malfeasance or non-feasance in office. Before entering upon the duties of his office each of said commissioners shall make and subscribe and file with the secretary of state an affidavit in the following form:

I do solemnly swear (or affirm, as the case may be) that I will support the constitution of the United States and the constitution of the state of Minnesota, and that I will faithfully discharge the duties of the office of commissioner of railroads according to the best of my ability.

And shall enter into bonds, with security to be approved by the governor, in the sum of twenty thousand dollars, conditioned for the faithful performance of his duty as such commissioner.

§ 4. **COMPENSATION—SECRETARY—OFFICE—EXPENSES.** Each of said commissioners shall receive for his services the sum of three thousand dollars per annum, payable as the salary of other state officers. They shall be furnished with an office, office furniture, and stationery at the expense of the state, and shall have power to appoint a secretary to perform such duties as they may assign to him; said secretary shall receive for his services one thousand five hundred dollars per annum. The office of said commissioners shall be kept at the state capitol, and all sums authorized to be paid by this act shall be paid out of the state treasury, and only on the order of the state auditor: *provided*, that the total sum to be expended by said commissioners for furniture, stationery, postage, and other incidental expenses, shall in no case exceed the sum of eight hundred dollars per annum.

§ 5. **ENTITLED TO FREE PASSES.** The said commissioners and their necessary assistants shall have the right of passing, in the performance of their duties concerning railroads, on all railroads and railroad trains in this state.

§ 6. **ANNUAL REPORT OF RAILROADS.** Every railroad company incorporated or doing business in this state, or which shall hereafter become incorporated or do business under any general or special law of this state, shall, on or before the first day of September, in the year of our Lord one thousand eight hundred and eighty-five, and on or before the same day in each year thereafter, make and transmit to the commissioners appointed by virtue of this act, at their office in the state capitol, a full and true statement under oath of the proper officers of said corporation, of the affairs of their said corporation as the same existed on the first day of the preceding July, specifying:

*First.* The amount of capital stock subscribed, and by whom.

*Second.* The names of the owners of its stock and the amount owned by them respectively, and the residence of each stockholder as far as known.

*Third.* The amount of stock paid in, and by whom.

*Fourth.* The amount of its assets and liabilities.

*Fifth.* The names and place of residence of its officers.

*Sixth.* The amount of cash paid to the company on account of original capital stock.

*Seventh.* The amount of funded debt.

*Eighth.* The amount of floating debt.

*Ninth.* The estimated value of the road-bed, including iron and bridges.

*Tenth.* The estimated value of rolling stock.

*Eleventh.* The estimated value of stations, buildings, and fixtures.

*Twelfth.* The estimated value of other property.

*Thirteenth.* The length of single main track.

*Fourteenth.* The length of double main track.

*Fifteenth.* The length of branches, stating whether they have single or double tracks.

*Sixteenth.* The aggregate length of siding and other tracks not enumerated.

*Seventeenth.* The number of miles run by passenger trains during the year preceding the making of the report.

*Eighteenth.* The number of miles run by freight trains during the same period.

*Nineteenth.* The number of tons of through freight carried during the same time.

*Twentieth.* The number of tons of local freight carried during the same time.

*Twenty-first.* Its monthly earnings for the transportation of passengers during the same time.

*Twenty-second.* Its monthly earnings for the transportation of freight during the same time.

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reduced rates, for the United States, or for the state of Minnesota, or for any municipal government or corporation within the state, or for any charitable purpose, or to or from fairs, and expositions for exhibition thereat, (or stock for breeding purposes,) or to the issuance of mileage, excursion, or commu-

*Twenty-third.* Its monthly earnings from all other sources respectively.

*Twenty-fourth.* The amount of expense incurred in the running and management of passenger trains during the same time.

*Twenty-fifth.* The amount of expense incurred in the running and management of freight trains during the same time. Also the amount of expense incurred in the running and management of mixed trains during the same time.

*Twenty-sixth.* All other expenses incurred in the running and management of the road during the same time, including the salaries of officers, which shall be reported separately.

*Twenty-seventh.* The amount expended for repairs of road and maintenance of way, including repairs and renewal of bridges and renewal of iron.

*Twenty-eighth.* The amount expended for improvement, and whether the same is estimated as a part of the expenses of operating or repairing the road, and, if either, which.

*Twenty-ninth.* The amount expended for motive power and cars.

*Thirtieth.* The amount expended for station-houses, buildings, and fixtures.

*Thirty-first.* All other expenses for the maintenance of way.

*Thirty-second.* All other expenditures, either for management of road, maintenance of way, motive power and cars, or for other purposes.

*Thirty-third.* The rate of fare for passengers for each month during the same time, through and way passengers separately.

*Thirty-fourth.* The tariff of freights, showing each change of tariff during the same time.

*Thirty-fifth.* A copy of each published rate of fare for passengers and tariff of freight in force or issued for the government of its agents during the same time.

*Thirty-sixth.* Whether the rate of fare and tariff of freight in such published lists are the same as those actually received by the company during the same time. If not, what were received.

*Thirty-seventh.* What express companies run on its roads, and on what terms and on what conditions. The kind of business done by them, and whether they take their freights at the depots or at the office of such express companies.

*Thirty-eighth.* What freight and transportation companies run on its road, and on what terms.

*Thirty-ninth.* Whether such freight and transportation companies use the cars of the railroad or the cars furnished by themselves.

*Fortieth.* Whether the freight or cars of such companies are given any preference in speed or order of transportation, and, if so, in what particular.

*Forty-first.* What running arrangements it has with other railroad companies, setting forth the contracts for the same.

§ 7. ADDITIONAL INQUIRIES. The said commissioners may make and propound to such railroad companies any additional interrogatories relating to the condition, operation, and control of said roads, which shall be answered by such companies in the same manner as those specified in the foregoing section.

§ 8. APPLICATION OF §§ 6, 7. Sections six and seven of this act shall apply to the president, directors, and officers of every railroad company now existing, or which shall be incorporated or organized in this state, and to every lessee, manager, and operator of any railroad within this state.

§ 9. REPORTS BY COMMISSIONERS—INVESTIGATIONS. Such commissioners shall on or before the first day of December in each year, and oftener if required by the governor to do so, make a report to the governor of their doings for the preceding year, containing such facts, statements, and explanations as will disclose the actual workings of the system of railroad transportation in its bearings upon the business and prosperity of the people of this state, and such suggestions in relation thereto as to them may seem appropriate; they shall also, at such time as the governor shall direct, examine any particular subject connected with the condition and management of such railroads, and report to him in writing their opinion thereon, with their reasons therefor. Said commissioners shall also investigate and consider what, if any, amendment or revision of the railroad laws of this state, the best interests of the state may demand, and they shall make a special biennial report on said subject to the legislature.

§ 10. INVESTIGATION—GRATUITIES—REVEALING INFORMATION. Said commissioners shall examine into the condition and management and all other matters concerning the business of railroads in this state, so far as the same pertain to the relations of such roads to the public and to the accommodation and security of persons doing business therewith, and whether such railroad companies, their officers, directors, managers, lessees, agents, and employes comply with the laws of this state now in force or which

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tation passenger tickets, at rates made equal to all, or to transportation to stock shippers with cars, and nothing in the provisions of this act shall be construed to prevent common carriers, subject to the provisions of this act, from issuing passes for the free transportation of passengers.

shall hereafter be in force concerning them. In order to enable said commissioners efficiently to perform their duties under this act, it is hereby made their duty to cause one of their number to visit the various stations on the lines of each railroad as often as practicable, and at least once in three months to visit each county in the state in which it or shall be located a railroad station, and personally inquire into the management of such railroad business. And for this purpose all railroad companies and their officers are required to aid and furnish said commissioners with reasonable and proper facilities. Said railroad commissioners or either of them shall have the right in his or their official capacity to enter and remain during business hours in the cars, offices, or depots, or upon the railroads, of any railroad company within this state, in the performance of official duties. But said railroad commissioner shall not directly or indirectly solicit or request from or recommend to any railroad company, or any officer, attorney, or agent thereof, the appointment of any person or persons to any place or position, nor shall any railroad corporation, its attorney or agent, offer any place, appointment, or position, or other consideration, to such commissioners or either of them, nor to any clerk or employe of said commissioners, whatever; neither shall said commissioners, nor their secretary, clerks, agents, employes, or experts, accept, receive, or request any pass, present, gift, or gratuity of any kind from any railroad corporation, and the request or acceptance by them or either of them of any such place or position, pass, presents, gifts or other gratuity shall work a forfeiture of the office of the said commissioner or commissioners, secretary, clerk or clerks, agent or agents, employe or employes, expert or experts, who shall be guilty thereof. And any violation of this section or any part thereof shall also be deemed a misdemeanor and punishable as such, and any commissioner who shall reveal any information gained by him from any railroad company to any other railroad company or person shall be guilty of a misdemeanor.

§ 11. INSPECTION—EXAMINATION OF BOOKS AND OFFICERS. The property, books, records, accounts, papers, and proceedings, so far as they relate to the condition, operation, or management of the road, of all such railroad companies, shall at all times during the business hours, be subject to the examination and inspection of such commissioners, and they shall have power to examine, under oath or affirmation, any and all directors, officers, managers, agents, and employes of any such railroad corporation and other persons, concerning any matter relating to the condition and management of such business.

§ 12. WITNESSES. In making any examination as contemplated in this act, or for the purpose of obtaining information pursuant to this act, said commissioners shall have the power to issue subpoenas for the attendance of witnesses, and may administer oaths. In case any person shall willfully fail or refuse to obey such subpoena, it shall be the duty of the district court of any county, upon application of the said commissioners, to issue an attachment for such witness and compel such witness to attend before the commissioners and give his testimony upon such matters as shall be lawfully required by such commissioners, and the said court shall have power to punish for contempt, as in other cases of refusal to obey the process and order of such court. Said witnesses shall receive the same compensation as witnesses in civil actions, to be paid by the party subpoenaing them, and in case such witnesses are subpoenaed by the commissioners, such fees shall be paid by warrants on the state treasury, to be drawn by the state auditor on vouchers for the same, approved by said commissioners.

§ 13. DISOBEYING SUBPOENA—PENALTY. Any person who shall willfully neglect or refuse to obey the process of said subpoena issued by said commissioners, and appear and testify as therein required, shall be deemed guilty of a misdemeanor, and shall be liable to an indictment in any court of competent jurisdiction, and on conviction thereof shall be punished for each offense by a fine of not less than twenty-five dollars nor more than five hundred dollars, or by imprisonment in the county jail of not more than thirty days, or both, in the discretion of the court before which such conviction shall be had.

§ 14. MISCONDUCT OF RAILROAD COMPANIES—PENALTY. Every railroad company, and every officer, agent, or employe of any railroad company, who shall willfully neglect to make and furnish any report required in this act at the time herein required, or who shall willfully and unlawfully hinder, delay, or obstruct said commissioners in the discharge of the duties hereby imposed upon them, shall forfeit and pay a sum of not less than one hundred dollars nor more than five thousand dollars for each offense, to be recovered in a civil action; and every railroad company, and every officer, agent, or employe of any such railroad company, shall be liable to a like penalty for every period of ten days it or he shall willfully neglect or refuse to make such report.

§ 15. ELEVATORS AND SIDE-TRACKS. Every railroad company or corporation organized under the laws of this state or doing business therein, shall, upon application, permit any person, company, or corporation, for an annual rental of one dollar, to con-

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(b) The term "railroad" as used in this act shall include all bridges or ferries used or operated in connection with any railroad, and also all the road in use by any corporation operating a railroad, whether owned or operated under a contract, agreement, or lease; and the term "transportation" shall include all instrumentalities of shipment or carriage. (1887, c. 10, § 1.)

struct, maintain, and operate any elevator or warehouse at any of its regular way stations, to be used for the purpose of receiving, storing, and handling grain, and such permission shall be granted without regard to the capacity of such elevator or warehouse, and without discrimination as to persons and in the order of application, and such railroad company shall also provide reasonable side-track facilities and running connections between its main track and elevators and warehouses, upon or contiguous to its right of way at such stations, and every such railroad corporation shall permit connections to be made and maintained in a reasonable manner with its side tracks to and from any warehouse or elevator, without reference to its size or capacity, where grain is or may be stored: *provided*, that this shall not be construed so as to require any railroad company to construct or furnish any side track off from its own land; *provided further, however*, that such elevators and warehouses shall not be constructed within one hundred feet of any existing structure, and shall be at safe fire distance from the station buildings, and so as not to essentially conflict with the safe and convenient operation of the road: *and provided further*, that where stations are ten miles or more apart, the railroad company, when required to do so by the railroad and warehouse commissioners, shall construct and maintain a side track for the use of shippers between such stations.

[See as to constitutionality, *State v. Railway Co.*, 31 N. W. Rep. 365, 36 Minn. 402.]

§ 16. TRANSPORTATION FOR GRAIN. Every railroad company shall, upon reasonable demand, furnish transportation for all grain stored in such and all elevators and warehouses, or offered for shipment in bulk or otherwise from any established side track at any regular station on its line, promptly and without any discrimination whatever, for or against any person, company, or corporation, and such railway company shall keep at its several stations a complete register of all cars, and to whom the same are so furnished, the date when furnished, and said register shall be for the inspection of all persons interested. In all controversies in regard to the furnishing of cars, the burden of proof shall rest with the company or corporation so seeking to excuse itself for its refusal or neglect to furnish cars.

§ 17. SAME. Every such company or corporation shall furnish cars suitable for the shipment of grain in bulk, and as hereinbefore provided, and shall, when loaded, whether from any elevator, warehouse, or side track, seal the same, and take and safely transport the same to the point indicated by the shipper or in the direction thereof so far as its route may extend, and with reasonable dispatch and at reasonable rates.

§ 18. APPLICATION FOR CARS. Any person desiring to ship grain from any of the established side tracks at any way station of any such company or corporation may do so by making application for cars for that purpose. The station agent may collect of the person so applying for cars a sum not to exceed five dollars for each car so ordered, to be paid to such company or corporation in case the cars are not loaded and ready for shipment within twenty-four hours from the time so furnished. But when its cars shall remain unused upon its side track for over twenty-four hours, such company or corporation shall be at liberty to reclaim the same.

§ 19. FACILITIES FOR TRANSPORTATION. Every railroad corporation in this state shall furnish, start, and run cars for the transportation of such passengers and property as shall, within a reasonable time previous thereto, be ready or be offered for transportation at the several stations on its railroad, and at the junctions of other railroads, and at such stopping places as may be established for receiving and discharging way passengers and freight. And shall take, receive, transport, and discharge such passengers and property at, from, and to such stations, junctions, and places on and from all trains advertised to stop at the same for passengers and freight respectively, upon the due payment or tender of payment of tolls, freight, or fare, legally authorized therefor, if payment shall be demanded.

§ 20. EXTORTION AND DISCRIMINATION. No such railroad corporation shall be guilty of extortion, nor of any unjust discrimination as to passenger or freight rates, or the rates for the use and transportation of railroad cars upon its road or upon any of the branches thereof, or upon any railroad connected therewith which it has the right, license, or permission to operate, control, or use within this state, or in furnishing facilities for the loading, unloading, handling, or transporting of freights, or shall make any unjust discrimination whatever against any person or persons, town, village, city, station, or location in this state, or shall charge, demand, or receive from any person, company, or corporation, for the transportation of persons or property or for any other service, a greater sum than it shall at the same time charge, demand, or receive from any person, company, or corporation for a like service from the same place, upon like conditions and under similar circumstances: *provided*, that no railroad company shall charge

## \*§ 77b. Charges—Preferences.

(a) That all charges made by any common carrier, subject to the provisions of this act, for any service rendered or to be rendered in the transportation of passengers or property as aforesaid, or in connection therewith, or for the re-

ceive from any person a higher rate per ton per mile for one car-load of freight than for a greater number of car-loads per car under like conditions and circumstances.

§ 21. PROSECUTIONS BY COMMISSIONERS. Whenever the facts in any manner ascertained by said commissioners shall in their judgment warrant such prosecution, it shall be the duty of said commissioners to immediately cause suit to be commenced and prosecuted against any railroad corporation which may violate any of the provisions of this act. All such prosecutions shall be in the name of the state of Minnesota, and may be instituted in any county in this state through or into which the line of the railroad corporation sued for violating this act may extend, and all fines recovered under the provisions of this act shall be immediately paid into the state treasury by the sheriff or other officer or persons collecting the same, and the same shall be passed by the treasurer to the general revenue fund.

§ 22. ATTORNEY GENERAL AND COUNTY ATTORNEYS TO PROSECUTE SUITS. It shall be the duty of the attorney general and the county attorney in any county, on the request of said commissioners, to institute and prosecute any and all suits and proceedings which they or either of them shall be directed by said commissioners to institute and prosecute for a violation of this act or any law of this state concerning railroad companies against such railroad companies or the officers, employes, owners, operators, or agents of any such companies, and such railroad commissioners are hereby authorized, when the facts of the case presented to them shall in their judgment warrant, to employ counsel to assist the attorney general or any county attorney in conducting such suits. No such suits commenced by said commissioners under the provisions of this act shall be dismissed unless the reason therefor shall be stated on the record, and all suits to recover penalties or forfeitures under this act shall have precedence of all other business except criminal business.

§ 23. NOTICE—PROSECUTIONS—REPORT—SAVING CLAUSE. Whenever in the judgment of the railroad commissioners it shall appear that any railroad corporation fails in any respect or particular to comply with the laws of the state, or whenever in their judgment any repairs are necessary upon its road, or any addition to or change of its station or station houses, or to make reasonable connections at crossings with other railroads, or any changes in its rates of fare for transporting freight or passengers, or any change in the mode of operating its road or conducting its business, is reasonable and expedient in order to promote the security, convenience, and accommodations of the public, said railroad commissioners shall inform such railroad company, through any of its officers, manager, or superintendent, by a notice thereof in writing, to be served by leaving a copy thereof with such officer, certified by the commissioner's clerk or secretary, and if such failure be persisted in then the commissioners may in their discretion cause suits or proceedings to be instituted as provided for in sections twenty-one and twenty-two of this act, and a report of all their proceedings under the provisions of this section shall be included in the annual report of the commissioners to the governor; and nothing in this act shall be construed as relieving any railroad company from their responsibility or liability for damage to person or property.

§ 24. EVIDENCE—OTHER REMEDIES PRESERVED. In all cases under the provisions of this act, the rules of evidence shall be the same as in other civil actions, except as herein otherwise provided, and the remedies hereby given shall be regarded as cumulative to the remedies now given by law against railroad corporations, and this act shall not be construed as repealing any statute giving such remedies, nor as limiting the right of any person to prosecute any suit for private damages as now allowed by law.

§ 25. "RAILROAD CORPORATION" DEFINED. The term "railroad corporation" contained in this act shall be deemed and taken to mean all corporations, companies, or individuals now owning or operating, or which may hereafter own or operate, any railroad in whole or in part in this state; and the provisions of this act shall apply to all persons, firms, and companies, and to all associations or persons, whether incorporated or otherwise, that shall do business as common carriers upon any of the lines of railways in this state, (street railways excepted,) the same as to railroad corporations hereinbefore mentioned.

§ 26. LIMITATION OF COMMON-LAW LIABILITY UNLAWFUL. Whenever any property is received by any railroad corporation to be transported from one place to another within or without this state it shall not be lawful for such corporation to limit its common-law liability safely to deliver such property at the place to which the same is to be transported by any stipulation or limitation expressed in the receipt given for the safe delivery of such property: *provided*, that the shipper and the railroad company may by contract agree on a value for such property and limit the company's liability to such agreed value: *provided, further*, that the consignor and the railway company may by contract, signed by the shipper or his delivering agent, limit such liability; but it shall

ceiving, delivering, storage, or handling of such property, shall be equal and reasonable; and every unequal and unreasonable charge for such service is prohibited and declared to be unlawful: *provided*, that one car-load of freight of any kind or class shall be transported at as low a rate per ton, and per ton per mile, as any greater number of car-loads of the same kind and class from and to the same points of origination or destination.

(b) It shall be unlawful for any common carrier, subject to the provisions of this act, to make or give any unequal or unreasonable preference or advantage to any particular person, company, firm, corporation, or locality, or any particular description of traffic, in any respect whatsoever, or to subject any particular person, company, firm, corporation, or locality, or any particular description of traffic, to any unequal or unreasonable prejudice or disadvantage in any respect whatsoever. (1887, c. 10, § 2.)

**\*§ 77c. Facilities for transfer.**

(a) That all common carriers, subject to the provisions of this act, shall, according to their respective powers, provide, at the point of connection, crossing, or intersection, ample facilities for transferring cars, and for accommodating and transferring passengers, and traffic of all kinds and classes, from their lines or tracks to those of any other common carrier whose lines or tracks may connect with, cross, or intersect their own, and shall afford all equal and reasonable facilities for the interchange of cars and traffic between their respective lines, and for the receiving, forwarding, and delivering of passengers and property and cars to and from their several lines and those of other common carriers connecting therewith, and shall not discriminate in their rates and charges between such connecting lines, or on freight coming over such lines; but this shall not be construed as requiring any common carrier to use for another common carrier its tracks, equipments, or terminal facilities without reasonable compensation.

**Continuous carriage.**

(b) It shall be unlawful for any common carrier, subject to the provisions of this act, to enter into any combination, contract, or agreement, expressed or implied, to prevent, by change of time or schedule, or by carriage in different cars, or by any other means or devices, the carriage or freight from being continuous from the place of shipment to the place of destination; and no break of bulk, stoppage, or interruption made by such common carrier shall prevent the carriage of freight from being treated as one continuous carriage from the place of shipment to the place of destination, unless such break, stoppage, or

not be competent for the railroad company in any case to exempt itself from liability for its own negligence by any contract.

§ 27. VIOLATIONS OF THIS ACT—PENALTY. Any railroad corporation offending against any of the provisions of this act shall, upon conviction thereof, be fined for each offense in the sum of not less than one hundred dollars, nor more than five thousand dollars.

§ 28. REPEAL. So much of chapter one hundred and three of the General Laws of one thousand eight hundred and seventy-five, being a part of title eight, chapter six, of the General Statutes of one thousand eight hundred and seventy-eight, as creates the office of railroad commissioner, and all acts and parts of acts inconsistent herewith, are hereby repealed; but actions or proceedings or rights of actions already accrued, growing out of or founded upon said acts, shall not be affected by such repeal, and the board of railroad commissioners created by this act, shall possess all the powers and perform all the duties heretofore imposed upon such railroad commissioner, except so far as the same have been changed by the provisions of this act.

§ 29. APPROPRIATION. Twenty thousand dollars, or so much thereof as is necessary, is hereby appropriated out of any money in the state treasury to carry out the provisions of this act.

§ 30. WHEN TO TAKE EFFECT. This act shall take effect and be in force thirty days after its passage, except the provisions thereof in reference to the appointment of commissioners and defining their duties shall take effect and be in force from and after its passage.



interruption was made in good faith for some necessary purpose, and without any intent to avoid or unnecessarily interrupt such continuous carriage or to evade any of the provisions of this act.

### **Transportation to be furnished without delay.**

(c) Every common carrier operating a railway in this state shall, without unreasonable delay, furnish, start, and run cars for the transportation of persons and property, which, within a reasonable time theretofore, is offered for transportation at any of its stations on its line of road and at the junctions of other railroads, and at such stopping places as may be established for receiving and discharging passengers and freights; and shall take, receive, transport, and discharge such passengers and property at, from, and to such stations, junctions, and places, on and from all trains advertised to stop at the same, for passengers and freights, respectively, upon the due payment, or tender of payment, of tolls, freight, or fare therefor, if such payment is demanded. Every such common carrier shall permit connections to be made and maintained in a reasonable manner with its sidetracks to and from any warehouse, elevator, or manufactory, without reference to its size or capacity: *provided*, that this shall not be construed so as to require any common carrier to construct or furnish any side track off from its own land: *provided, further*, that wherestations are ten miles or more apart the common carrier, when required to do so by the railroad and warehouse commissioners, shall construct and maintain a side track for the use of shippers between such stations.

### **Limitation of common-law liability unlawful.**

(d) Whenever any property is received by any common carrier subject to the provisions of this act, to be transported from one place to another within this state, it shall be unlawful for such common carrier to limit in any way, except as stated in its classification schedule, hereinafter provided for, its common-law liability with reference to such property while in its custody as a common carrier, (as hereinbefore mentioned.) Such liability must include the absolute responsibility of the common carrier for the acts of its agents in relation to such property. (*Id.* § 3.)

### **\*§ 77d. Pooling unlawful.**

That it shall be unlawful for any common carrier, subject to the provisions of this act, to enter into any contract, agreement, or combination with any other common carrier or carriers for the division or pooling of business of different and competing railroads, or to divide between them the aggregate or net proceeds of the earnings of such railroads, or any portion thereof; and in case of an agreement for the pooling of their business aforesaid each day of its continuance shall be deemed a separate offense. (*Id.* § 4.)

### **\*§ 77e. Rebate unlawful.**

That if any common carrier, subject to the provisions of this act, shall, directly or indirectly, by any special rate, rebate, drawback, or other device, charge, demand, collect, or receive from any person or persons a greater or less compensation for any service rendered, or to be rendered, in the transportation of passengers, or property subject to the provisions of this act, than it charges, demands, collects, or receives from any other person or persons for doing for him or them a like and contemporaneous service in the transportation of passengers or property, such common carrier shall be deemed guilty of unjust discrimination, which is hereby prohibited and declared to be unlawful. (*Id.* § 5.)

### **\*§ 77f. Long and short haul.**

That it shall be unlawful for any common carrier, subject to the provisions of this act, to charge or receive any greater compensation for the transportation

of passengers, or of like kind or class and quantity of property, for a shorter than for a longer distance over the same line, the shorter being included within the longer distance; but this shall not be construed as authorizing any common carrier, subject to the provisions of this act, to charge or receive as great compensation for a shorter as for a longer distance: *provided, however*, that upon application to the commission appointed under the provisions of this act, such common carrier may, in special cases, after investigation by the commissioners, be authorized to charge less, for longer than for shorter distances, for the transportation of passengers or property; and the commission may from time to time prescribe the extent to which such designated common carrier may be relieved from the operation of this section of this act. (1887, c. 10, § 6.)

**\*§ 77g. Same.**

(a) That it shall be unlawful for any common carrier, subject to the provisions of this act, to charge or receive any greater compensation per ton per mile for the contemporaneous transportation of the same class of freight for a longer than for a shorter distance over the same line, in the same general direction, or from the same original point of departure, or to the same point of arrival; but this shall not be construed as authorizing any common carrier, subject to the provisions of this act, to charge as high a rate per ton per mile for a longer as for a shorter distance.

**Equal division of cars among applicants.**

(b) Whenever any railway company doing business in this state shall be unable, from any reasonable cause, to furnish cars at any railway station or side track, in accordance with the demands made by all persons demanding cars at such stations or side tracks for the shipment of grain or other freight, such cars as are furnished shall be divided as equally as may be among the applicants until each shipper shall have received at least one car, when the balance shall be divided ratably in proportion to the amount of daily receipts of grain, or other freight, to each shipper, or to the amount of grain offered at such station on side tracks.

**One terminal charge.**

(c) There shall in no case be more than one terminal charge for switching or transferring any car, whether the same is loaded or empty, within the limits of any one city or town. If it is necessary that any car pass over the tracks of more than one company, within such city or town limits, in order to reach its final destination, or to be returned therefrom to its owner or owners, then the company first switching or transferring such car shall be entitled to receive the entire charge to be made therefor, and shall be liable to the company or companies doing the subsequent switching or transferring thereof for its or their reasonable and equitable share of the compensation received, and if the companies so jointly interested therein cannot agree upon the share thereof which each is entitled to receive, the same shall be determined by the board of railroad and warehouse commissioners, whose decision thereon shall be final and conclusive upon all parties interested, and the said board are authorized to establish such rules, regulations in that behalf as to them may seem just and reasonable, and not in conflict with this act. (*Id.* § 7.)

**\*§ 77h. Printed schedules of rates.**

(a) Every common carrier, subject to the provisions of this act, shall, within sixty days after this act shall take effect, print and thereafter keep for public inspection, schedules showing the classification, rates, fares, and charges for the transportation of passengers and property of all kinds and classes which such common carrier has established, and which are in force at the time, upon

its railroad, as defined by the first section of this act. This schedule, printed as aforesaid by such common carrier, shall plainly state the places upon its railroad between which property and passengers will be carried, and shall contain "classification of freight" in force upon the lines of such railroad, a distance tariff, and a table of interstation distances, and shall also state separately the terminal charges, and any rules or regulations which in anywise change, affect, or determine any part of the aggregate of such aforesaid rates, fares, and charges. Such schedules shall be plainly printed in large type, and copies, for the use of the public, shall be kept in every depot or station upon any such railroad, in such places and in such form that they can be conveniently inspected.

#### **Notice of changes in schedule.**

(b) No change of classification shall be made, and no change shall be made in the rates, fares, and charges which have been established and published as aforesaid, by any common carrier, in compliance with the requirements of this section, except after ten days' public notice, which notice shall plainly state the changes proposed to be made in the schedules then in force, and the time when the changed schedules will go into effect, and the proposed changes will be shown by printing new schedules, or shall be plainly indicated upon the schedules in force at the time and kept for public inspection.

#### **Charging more than schedule rates unlawful.**

(c) And when any common carrier shall have established and published its classifications, rates, fares, and charges in compliance with the provisions of this section, it shall be unlawful for such common carrier to charge, demand, collect, or receive from any person or persons a greater or less compensation for the transportation of passengers or property, or for any service in connection therewith, than is specified in such published schedule of classifications, rates, fares, and charges as may at the time be in force.

#### **Schedules to be filed.**

(d) Every common carrier, subject to the provisions of this act, shall file with the commission hereafter provided for in section ten of this act copies of its schedules of classifications, rates, fares, and charges which have been established and published in compliance with the requirements of this section, and shall promptly notify said commission of all changes proposed to be made in the same. Every [such] common carrier shall also file with said commission copies of all contracts, agreements, or arrangements with other common carriers in relation to any traffic affected by the provisions of this act, to which contracts, agreements, or arrangements it may be a party. And in cases where passengers or freight pass over lines or routes operated by more than one common carrier, and the several common carriers operating such lines or routes establish joint schedules of rates or fares, or charges or classifications for such lines or routes, copies of such joint schedules shall also, in like manner, be filed with said commission. Such joint schedules of rates, fare, charges, and classifications, for such lines, so filed as aforesaid, shall also be made public by such common carriers in the same manner as hereinbefore provided for the publication of tariffs upon its own lines.

#### **Commission may equalize tariffs.**

(e) In case the commission shall at any time find that any part of the tariffs of rates, fares, charges, or classifications so filed and published as hereinbefore provided, are in any respect unequal or unreasonable, it shall have the power and is hereby authorized and directed to compel any common carrier to change the same and adopt such rate, fare, charge, or classification as said commission shall declare to be equal and reasonable. To which end the com-

mission shall, in writing, inform such common carrier in what respect such tariff of rates, fares, charges, or classifications are unequal and unreasonable, and shall recommend what tariffs shall be substituted therefor.

#### **Commission to publish changes in tariff.**

(f) In case such common carrier shall neglect or refuse for ten days after such notice to substitute such tariff of rates, fares, charges, or classifications, or to adopt the same as recommended by the commission, it shall be the duty of said commission to immediately publish such tariff of rates, fares, charges, or classifications as they had declared to be equal and reasonable, and cause the same to be posted at all the regular stations on the line of such common carrier in this state, and thereafter it shall be unlawful for such common carrier to charge or maintain a higher or lower rate, fare, charge, or classification than that so fixed and published by said commission.

#### **Refusal to publish or file schedules—Penalty.**

(g) If any common carrier, subject to the provisions of this act, shall neglect or refuse to publish or file its schedule of classifications, rates, fares, or charges or any part thereof as provided in this section, or if any common carrier shall refuse or neglect to carry out such recommendation made and published by such commission, such common carrier shall be subject to a writ of *mandamus*, to be issued by any judge of the supreme court, or of any of the district courts of this state upon application of the commission, to compel compliance with the requirements of this section, and with the recommendation of the commission; and failure to comply with the requirements of said writ of *mandamus* shall be punishable as and for contempt, and the said commission, as complainants, may also apply to any such judge for a writ of injunction against such common carrier from receiving or transporting property or passengers within this state until such common carrier shall have complied with the requirements of this section and the recommendation of said commission; and, for any willful violation or failure to comply with such requirements or such recommendation of said commission, the court may award such costs, including counsel fees, by way of penalty, on the return of said writs, and after due deliberation thereon, as may be just. (1887, c. 10, § 8.)

As to the power of the commissioners to regulate switching charges, see *Chicago, M. & St. P. Ry. Co. v. Becker*, 32 Fed. Rep. 849.

#### **\*§ 77i. Railroad and warehouse commission.**

(a) A commission is hereby created and established, to be known as the "Railroad and Warehouse Commission of the State of Minnesota," which shall be composed of three commissioners, who shall be appointed by the governor, by and with the advice and consent of the senate.

#### **Term of office.**

(b) The commissioners first appointed under this act shall continue in office for the term of one, two, and three years respectively, and until their successors are appointed and qualified, beginning with the first Monday of January, A. D. 1889; the term of each to be designated by the governor, but their successors shall be appointed for a term of three years, and until their successors are appointed and qualified, except that any person chosen to fill a vacancy shall be appointed only for the unexpired term of the commissioner whom he shall succeed. Any commissioner may be removed by the governor for inefficiency, neglect of duty, or malfeasance in office. Said commissioners shall not engage in any other business, vocation, or employment while acting as such commissioners. No vacancy in the commission shall impair the right of the remaining commissioners to exercise all the powers of the commission.

**Vacancies.**

(c) Vacancies occasioned by removal, resignation, or other cause, shall be filled by the governor as provided in case of original appointments. Not more than two of the commissioners appointed shall be members of the same political party. No person in the employ of, or holding any official relation to, any common carrier, subject to the provisions of this act, or any law of this state, or owning stocks or bonds, or other property thereof, or who is in any manner interested therein, shall enter upon the duties of or hold such office.

**Decision of majority—Oath of commissioner.**

(d) The decision of a majority of the commission shall be considered the decision of the commission on all questions arising for its consideration. Before entering upon the duties of his office each commissioner shall make and subscribe and file with the secretary of state an affidavit in the following form: "I do solemnly swear (or affirm, as the case may be) that I will support the constitution of the United States, and the constitution of the state of Minnesota, and that I will faithfully discharge my duties as a member of the railroad and warehouse commission of the state of Minnesota, according to the best of my ability; and I further declare that I am not in the employ of, or holding any official relation to, any common carrier within this state; nor am I in any manner interested in any stock, bonds, or other property of such common carrier."

**Bond of commissioner.**

(e) Each commissioner so appointed and qualified shall enter into bonds of the state of Minnesota, to be approved by the governor, in the sum of twenty thousand dollars, conditioned for the faithful performance of his duty as a member of such commission, which bond shall be filed with the secretary of state.

**Procedure—Quorum—Regulations—Principal office.**

(f) The commission shall conduct its proceedings in such a manner as will best conduce to the proper dispatch of business and to the ends of justice. A majority of the commissioners shall constitute a quorum for the transaction of business, but no commissioner shall participate in any hearing or proceeding in which he has any pecuniary interest. Said commissioner may from time to time make or amend such general rules or orders as may be requisite for the order and regulation of proceedings before it, including forms of notices and service thereof, which shall conform as nearly as may be to those in use in the courts of this state. Any party may appear before said commission and be heard in person or by attorney. Every vote and official act of the commission shall be entered of record, and its proceedings shall be public upon the request of either party interested, or at the discretion of the commission. Said commission shall have an official seal which shall be judicially noticed. Any member of the commission may administer oaths and affirmations. The principal office of the commission shall be in the city of St. Paul, where its general sessions shall be held.

**Special sessions in other places.**

(g) Whenever the convenience of the public, or of the parties, may be promoted, or delay or expenses prevented thereby, the commission may hold special sessions in any part of the state. It may, by one or more of the commissioners, prosecute any inquiry necessary to its duties in any part of the state, into any matter or question of fact pertaining to the business of any common carrier subject to the provisions of this act.

**Attorney general ex-officio attorney for commission.**

(h) The attorney general of the state of Minnesota shall be *ex officio* attorney for the commission, and shall give them such counsel and advice as they may from time to time require; and he shall institute and prosecute any and all suits which said railroad and warehouse commission may deem it expedient and proper to institute; and he shall render to such railroad and warehouse commission all counsel, advice, and assistance necessary to carry out the provisions of this act, or of any law of this state, according to the true intent and meaning thereof. It shall likewise be the duty of the county attorney of any county in which suit is instituted or prosecuted, to aid in the prosecution of the same to a final issue upon the request of such commission. Said commission are hereby authorized, when the facts in any given case shall in their judgment warrant, to employ any and all additional legal counsel that they may think proper, expedient, and necessary to assist the attorney general or any county attorney in the conduct and prosecution of any suit they may determine to bring under the provisions of this act, or of any law of this state. (1887, c. 10, § 9.)

**\*§ 77j. Powers and duties.**

(a) That the commission hereby created shall have authority to inquire into the management of the business of all common carriers, subject to the provisions of this act, and shall keep itself informed as to the manner and method in which the same is conducted, and shall have the right to obtain from such common carriers full and complete information necessary to enable the commission to perform the duties and carry out the objects for which it was created. In order to enable said commissioners efficiently to perform their duties under this act, it is hereby made their duty to cause one of their number to visit the various stations on the lines of each railroad as often as practicable, after giving twenty days' notice of such visit and the time and place thereof in the local newspapers, and at least once in twelve months to visit each county in the state in which is or shall be located a railroad station, and personally inquire into the management of such railroad business; and for this purpose, all railroad companies and common carriers, and their officers and employes, are required to aid and furnish each member of the railroad and warehouse commission with reasonable and proper facilities, and each or all of the members of said commission shall have the right, in his or their official capacity, to pass free on any railroad trains on all railroads in this state, and to enter and remain in, at all suitable times, any and all cars, offices, or depots, or upon the railroads of any railroad company, in this state in the performance of official duties. And whenever, in the judgment of the commission, it shall appear that any common carrier fails in any respect or particular to comply with the laws of this state, or whenever, in their judgment, any repairs are necessary upon its railroad, or any addition to or change of its stations or station-houses is necessary, or any change in the mode of operating its road or conducting its business is reasonable or expedient in order to promote the security, convenience, and accommodation of the public, said commission shall inform such railroad company, by a notice thereof in writing, to be served as a summons in civil actions is required to be served by the statutes of this state in actions against corporations, certified by the commission's clerk or secretary, and if such common carrier shall neglect or refuse to comply with such order, then the commission may, in its discretion, cause suits or proceedings to be instituted to enforce its orders, as provided in this act. (*Id.* § 10.)

See *Commonwealth v. Housatonic R. R.*, (Mass.) 9 N. E. Rep. 547; *People v. New York, L. E. & W. R. Co.*, (N. Y.) 9 N. E. Rep. 856; *In re New York, L. E. & W. R. Co. v. New York, L. & W. R. Co.*, (N. Y.) 2 N. E. Rep. 35.

**\*§ 77k. Liability of carrier for violation of this act.**

(a) That in case any common carrier, subject to the provisions of this act, shall do, cause to be done, or permit to be done, any act or thing in this act prohibited, or declared to be unlawful, or shall omit to do any act, matter, or thing in this act required to be done, such common carrier shall be liable to the person or persons, party or parties, injured thereby, for the full amount of damages sustained in consequence of any such violation of the provisions of this act, together with a reasonable counsel or attorney's fee to be fixed by the court in every case of recovery, which attorney's fees shall be taxed and collected as part of the costs in the case.

**Suit by injured party.**

(b) That any person or persons, party or parties, claiming to be damaged by the action or non-action of any common carrier, subject to the provisions of this act, may either make complaint to the commission, as hereinafter provided for, or may bring suit in his or their own behalf for the recovery of the damages for which such common carrier may be liable under the provisions of this act, in any district court of this state, of competent jurisdiction, but such person or persons shall not have the right to pursue both of said remedies at the same time.

**Carrier's officers compelled to testify.**

(c) In any action brought for the recovery of damages the court before which the same shall be pending may compel any director, officer, receiver, trustee, or agent of any corporation or company, defendant in such suit, to attend, appear, and testify in such case, and may compel the production of the books and papers of such corporation or company, party to any such suit; the claim that any such testimony or evidence may tend to criminate the person giving such evidence shall not excuse such witness from testifying, but such evidence or testimony shall not be used against such person on the trial of any criminal proceeding. (*Id.* § 11.)

**\*§ 77l. Non-compliance with this act—Penalty.**

That any common carrier, subject to the provisions of this act, or, whenever such common carrier is a corporation, any director or officer thereof, or any receiver, trustee, lessee, agent, or person acting for, or employed by, such corporation, who, alone or with any other corporation, company, person, or party, shall willfully do or cause to be done, or shall willfully suffer or permit to be done, any act, matter, or thing in this act prohibited or declared to be unlawful, or who shall aid or abet therein, or shall willfully omit or fail to do any act, matter, or thing in this act required to be done, or shall cause or willingly suffer or permit any act, matter, or thing, so directed or required by this act to be done, not to be so done, or shall aid and abet therein any such omission, or shall be guilty of any willful infraction of this act, or shall aid or abet therein, shall be deemed guilty of a violation of the provisions of this act, and shall, upon conviction thereof in any district court of the state within the jurisdiction of which such offense was committed, be subject to a penalty of not less than two thousand five hundred dollars or more than five thousand dollars for the first offense, and not less than five thousand dollars or more than ten thousand dollars for each subsequent offense. (*Id.* § 12.)

**\*§ 77m. Petition by persons aggrieved.**

(a) That any person, firm, corporation, or association, or any mercantile, agricultural, or manufacturing society, or any body politic or municipal organization, complaining of anything done or omitted to be done by any common carrier subject to the provisions of this act, in contravention of the provisions thereof, may apply to said commission by petition, which shall briefly state the facts.

**Same—Procedure.**

(b) Whereupon a statement of the charges thus made shall be forwarded by the commission to such common carrier, who shall be called upon to satisfy the complaint, or to answer the same in writing within a reasonable time, to be specified by the commission. If such common carrier, within the time specified, shall make reparation for the injury alleged to have been done, said carrier shall be relieved of liability to the complainant only, for the particular violation of law thus complained of. If such carrier shall not satisfy the complaint within the time specified, or there shall appear to be any reasonable ground for investigating said complaint, it shall be the duty of the commission summarily to investigate the matter complained of, in such manner and by such means as it shall deem proper. No complaint shall at any time be dismissed because of absence of direct damages to the complainant. And for the purposes of this act the commission shall have power to require the attendance of witnesses and the production of all books, papers, contracts, agreements and documents relating to any matter under investigation, and, to that end, may invoke the aid of any of the courts of this state, in requiring the attendance of witnesses and the production of books, papers, and documents, under the provisions of this act.

**Contempt.**

(c) Any of the district courts of this state, within the jurisdiction of which such inquiry is carried on, shall, in case of contumacy or refusal to obey a subpoena issued by the commissioners to any common carrier subject to the provisions of this act, or when such common carrier is a corporation, to an officer or agent thereof, or to any person connected therewith, if proceedings are instituted in the name of such commission as plaintiffs, issue an order requiring such common carrier, officer or agent, or person to show cause why such contumacy or refusal should not be punished as and for contempt, and if upon the hearing the court finds that the inquiry is within the jurisdiction of the commission, and that such contumacy or refusal is willful and the same is persisted in, such contumacy or refusal shall be punished as though the same had taken place in an action pending in the district court for any judicial district in this state. The claim that any such testimony or evidence may tend to criminate the person giving such evidence shall not excuse such witness from testifying; but such evidence or testimony shall not be used against such persons on the trial of any criminal proceeding. (1887, c. 10, § 13.)

**\*§ 77n. Findings to be in writing.**

(a) Whenever an investigation shall be made by said commission, it shall be its duty to make a report in writing in respect thereto, which shall include the findings of fact upon which the conclusions of the commission are based, together with its recommendation as to what reparation, if any, should be made by the common carrier to party or parties who may be found to have been injured; and such findings so made shall thereafter, in all judicial proceedings, be deemed *prima facie* evidence as to each and every fact found. All reports of investigations made by the commission shall be entered of record, and a copy thereof shall be furnished to the party who may have complained, and to any common carrier that may have been complained of, and the record thereof shall be public.

**Findings against carrier—Procedure.**

(b) If in any case in which an investigation shall be made by said commission it shall be made to appear to the satisfaction of the commission, either by testimony of witnesses or other evidence, that anything has been done or omitted to be done by any common carrier, in violation of the provisions of this act, or of any law cognizable by said commission, or that any injury or



damages has been sustained by the party or parties complaining, or by other parties aggrieved in consequence of any such violation, it shall be the duty of the commission to forthwith cause a copy of its report in respect thereto to be delivered to such common carrier, together with a notice to said common carrier to cease and desist from such violation and to make reparation for the injury so found to have been done, within a brief but reasonable time, to be specified by the commission; and if, within the time specified, it shall be made to appear to the commission that such common carrier has ceased from such violation of law, and has made reparation for the injury found to have been done, in compliance with the report and notice of the commission, or to the satisfaction of the party complaining, a statement to that effect shall be entered of record by the commission, and the said common carrier shall thereupon be relieved from further liability or penalty for such particular violation of law.

#### Continued violation—Procedure.

(c) But if said common carrier shall neglect or refuse, within the time specified, to desist from such violation of law, and make reparation for the injury done in compliance with the report and notice of the commission as aforesaid, it shall be the duty of the commission to forthwith certify the fact of such neglect or refusal, and forward a copy of its report and such certificate to the attorney general of the state for redress and punishment as hereinafter provided. (*Id.* § 14.)

#### \*§ 770. Suit by attorney general.

(a) That it shall be the duty of the attorney general to whom said commission may forward its report and certificate, as provided in the next preceding section of this act, when it shall appear from such report that any injury or damage has been sustained by any party or parties by reason of such violation of law by such common carrier, to forthwith cause suit to be brought in the district court in the judicial district wherein such violation occurred, on behalf and in the name of the person or persons injured, against such common carrier, for the recovery of damages for such injury as may have been sustained by the injured party; and the cost and expenses of such prosecution shall be paid out of the appropriation hereinafter provided for, for the uses and purposes of this act.

#### Procedure.

(b) And the said court shall have power to hear and determine the matter on such short notice to the common carrier complained of as the court shall deem reasonable; and such notice shall be served on such common carrier, his or its officers, agents, or servants, in such manner as the court shall direct; and said court shall proceed to hear and determine the matter speedily, and without the formal pleading and proceedings applicable to ordinary suits in equity, but in such manner as to do justice in the premises; and to this end such court shall have power, if it thinks fit, to direct and prosecute, in such mode and by such persons as it may appoint, all such inquiries as the court may think needful to enable it to form a just judgment in the matter of such petition. And on such hearing the report of said commission shall be *prima facie* evidence of the matters therein stated.

#### Process—Contempt—Appeal.

(c) And if it be made to appear to such court, on such hearing, or on report of any such person or persons, that the lawful order or requirement of such commission, drawn in question, has been violated or disobeyed, it shall be lawful for such court to issue a writ of injunction, or other proper process, mandatory or otherwise, to restrain such common carrier from further continuing

such violation or such disobedience of such order or requirement of said commission, and enjoining obedience to the same; and in case of any disobedience of any such writ of injunction or other proper process, mandatory or otherwise, it shall be lawful for such court to issue writs of attachment, or any other process of said court incident or applicable to writs of injunction or other proper process, mandatory or otherwise, against such common carrier; and if a corporation, against one or more of the directors, officers, or agents of the same, or against any owner, lessee, trustee, receiver, or other person failing to obey such writ of injunction or other proper process, mandatory or otherwise; and said court may, if it shall think fit, make an order directing such common carrier or other person so disobeying such writ of injunction or other proper process, mandatory or otherwise, to pay such sum of money, not exceeding for each carrier or person in default the sum of five hundred dollars for every day after a day to be named in the order, that such carrier or other person shall fail to obey such injunction or other proper process, mandatory or otherwise; and such moneys shall be payable as the court shall direct, either to the party complaining, or into court to abide the ultimate decision of the court; and payment thereof may, without prejudice to any other mode of recovering the same, be enforced by attachment or order in the nature of a writ of execution, in like manner as if the same had been recovered by a final decree *in personam* in such court. Either party to such proceeding before said court may appeal to the supreme court of the state, under the same regulations now provided by law in respect to security for such appeal; but such appeal shall not operate to stay or supersede the order of the court or the execution of any writ or process thereon, unless the court hearing or deciding such case should otherwise direct; and such court may, in every such matter, order the payment of such costs and counsel fees as shall be deemed reasonable.

#### **Appeal from order of commission.**

(d) In case the attorney general shall not, within a period of ten days after the making of any order by the commission, commence judicial proceedings for the enforcement thereof, any railroad company, or other common carrier affected by such order, may at any time within the period of thirty days after the service upon him or it of such order, and before commencement of proceedings, appeal therefrom to the district court of any judicial district through or into which his or its route may run, by the service of a written notice of such appeal upon some member or the secretary of such commission. And upon the taking of such appeal, and the filing of the notice thereof, with the proof of service, in the office of the clerk of such court, there shall be deemed to be pending in such court a civil action of the character and for the purposes mentioned in sections eleven and fifteen of this act. Upon such appeal, and upon the hearing of any application for the enforcement of any such order made by the commission or by the attorney general, the court shall have jurisdiction to examine the whole matter in controversy, including matters of fact as well as questions of law, and to affirm, modify, or rescind such order in whole or in part, as justice may require, and in case of any order being modified, as aforesaid, such modified order shall, for all the purposes contemplated by this act, stand in place of the original order so modified. No appeal as aforesaid shall stay or supersede the order appealed from in so far as such order shall relate to rates of transportation or to modes of transacting the business of the appellant with the public, unless the court hearing or deciding such case shall so direct. (1887, c. 10, § 15.)

#### **\*§ 77p. Prosecution by commission.**

(a) That whenever facts, in any manner ascertained by said commission, shall, in its judgment warrant a prosecution, it shall be the duty of said com-

mission to immediately cause suit to be instituted and prosecuted against any common carrier who may violate any of the provisions of this act, or of any law of this state. All such prosecutions shall be in the name of the state of Minnesota, except as is otherwise provided in this act, or in any law of this state, and may be instituted in any county in the state through or into which the line of any common carrier so sued may extend, and all penalties recovered under the provisions of this act, or of any law of this state, in any suit instituted in the name of the state, shall be immediately paid into the state treasury by the sheriff or other officer or person collecting the same; and the same shall be by the state treasurer placed to the credit of the general revenue fund.

**District court—When deemed in session.**

(b) For the purposes of this act, except its penal provisions, the district courts of this state shall be deemed to be always in session. (*Id.* § 16.)

**\*§ 77q. Annual reports by carriers.**

(a) The commission is hereby directed to require annual reports from all common carriers subject to the provisions of this act, to fix the time and prescribe the manner in which said reports shall be made, and to require from such carriers specific answers to all questions upon which the commission may need information. Such annual reports shall show in detail the amount of capital stock issued, the amounts paid therefor, and the manner of payment for the same, the dividends paid, the surplus fund, if any, and the number of stockholders, the funded and floating debts, and the interest paid thereon; the cost and value of the carrier's property, franchises, and equipment, the number of employes, and the salary paid each class, the amounts expended for improvements each year, how expended, and the character of such improvements; the earnings and receipts of each branch of business, and from all sources; the operating and other expenses; the balance of profit and loss; and a complete exhibit of the financial operations of the carrier each year, including an annual balance-sheet; also the total number of acres of land received as grants either from the United States or from the state of Minnesota, the number acres of said grants sold, and the average price received per acre, the number acres of grants unsold, and the appraised value per acre. Such detailed reports shall also contain such information in relation to rates and regulations concerning fares or freights, and agreements, arrangements, or contracts with express companies, telegraph companies, sleeping and dining car companies, fast freight lines, and other common carriers, as the commission may require, with copies of such contracts, agreements, or arrangements.

**Uniform system of accounts by carriers.**

(b) And the commission may, within its discretion, for the purpose of enabling it the better to carry out the purposes of this act, prescribe (if in the opinion of the commission it is practicable to prescribe such uniformity and methods of keeping accounts) a period of time within which all common carriers, subject to the provisions of this act, shall have, as near as may be, a uniform system of accounts, and the manner in which such accounts shall be kept. (*Id.* § 17.)

**\*§ 77r. Commission to make annual report.**

(a) That such commissioners shall, on or before the first day of December in each year, and oftener if required by the governor to do so, make a report to the governor of their doings for the preceding year, containing such facts, statements, and explanations as will disclose the actual workings of the system of railroad transportation in its bearings upon the business and prosperity of the people of this state, and such suggestions in relation thereto as to them may seem appropriate.

**Special reports.**

(b) They shall also, at such times as the governor shall direct, examine any particular subject connected with the conditions and management of such railroads, and report to him in writing their opinion thereon, with their reasons therefor. Said commissioners shall also investigate and consider what, if any, amendment or revision of the railroad laws of this state the best interest of the state may demand, and they shall make a special biennial report on said subject to the governor. All such reports made to the governor shall be by him transmitted to the legislature at the earliest practicable time.

**Common-law remedies preserved—Pending litigation.**

(c) Nothing in this act contained shall in any way abridge or alter the remedies now existing at common law or by statute, but the provisions of this act are in addition to such remedies: *provided*, that no pending litigation shall in any way be affected by this act. (1887, c. 10, § 18.)

**\*§ 77s. Salaries—Secretary—Employes—Office—Witness fees—Expenses.**

Each commissioner shall receive an annual salary of three thousand dollars, payable in the same manner as the salaries of other state officers. The commissioners shall appoint a secretary, who shall receive an annual salary of eighteen hundred dollars, payable in like manner. Said secretary shall, before entering upon the duties of his office, make and file with the secretary of state an affidavit in the following form: "I do solemnly swear or affirm (as the case may be) that I will support the constitution of the United States and the constitution of the state of Minnesota, and that I will faithfully discharge my duties as secretary of the railroad and warehouse commission of the state of Minnesota, according to the best of my ability; and I further declare that I am not in the employ of, or holding any official relation to, any common carrier or grain warehouseman, within said state; nor am I, in any manner, interested in any stock, bonds, or other property of such common carrier or grain warehouseman." The said secretary so appointed and qualified shall enter into bonds to the state of Minnesota, to be approved by the governor, in the sum of ten thousand dollars, conditioned for the faithful performance of his duty as secretary of such commission, which bond shall be filed with the secretary of state. The commission shall have authority to employ and fix the compensation for such other employes as it may find necessary to the proper performance of its duties, subject to the approval of the governor of the state. The commissioners shall be furnished with a suitable office and all necessary office supplies. Witnesses summoned before the commission shall be paid the same fees and mileage that are paid witnesses in the district courts of the state. All the expenses of the commission, including all necessary expenses for transportation incurred by the commissioners, or by their employes under their order, in making any investigation in any other place than the city of St. Paul, shall be allowed and paid out of the state treasury on the presentation of itemized vouchers therefor, approved by the chairman of the commission and the state auditor. (*Id.* § 19.)

**\*§ 77t. Appropriation.**

The sum of fifteen thousand dollars is hereby appropriated for the use and purposes of this act for the fiscal year ending July thirty-first, eighteen hundred and eighty-eight, and the sum of fifteen thousand dollars is hereby appropriated for the use and purposes of this act for the fiscal year ending July thirty-first, eighteen hundred and eighty-nine. (*Id.* § 20.)

**\*§ 77u. Repeal—Former commission.**

All acts and parts of acts inconsistent herewith are hereby repealed: *provided*, that the provisions of this act shall apply to and govern the existing

railroad and warehouse commissioners appointed by virtue of an act approved March fifth, eighteen hundred and eighty-five, who are hereby clothed with the powers and charged with the duties and responsibilities of this act, granted to and imposed upon the railroad and warehouse commissioners of the state of Minnesota. (*Id.* § 21.)

**\*§ 77v. Duty of commission as to heating and lighting cars.**

It shall be the duty of the railroad commissioners of the state to make careful and diligent inquiry into the construction of, and the best means of heating and lighting, passenger and sleeping cars, run on any of the railroads within this state, with special reference to the safety of the passengers traveling therein, and more particularly to their safety from accident by fire; and the said commissioners shall make a special report on the subject to the legislature at the next regular session thereof: *provided*, that said commissioners may, if in their opinion the safety of the passengers should require it, give notice in writing to any railroad company or corporation, incorporated under the laws of this state, or doing business herein, that said companies or corporations, or either of them, shall, at a day to be designated in said notice, and not less than sixty days after the service of the same, cease and abandon the use of kerosene and all other oils, also illuminating or combustible fluids, in said cars for the purpose of lighting the same: *and provided, further*, that said companies shall, within sixty days from the passage of this act, adopt and put in use upon all sleeping cars operated by them within the limits of the state, some invention or appliance, subject to the approval of said commissioners, better calculated to prevent the shutting or closing of the upper berths of said cars in case of the overturning of such cars, or of other accidents, than the means now in common use for the purpose. (1887, c. 18, § 1.)

**\*§ 77w. Equipment of cars.**

Each of said railroad companies shall, within sixty days after the passage of this act, equip each passenger and sleeping car, run or operated by it within the state, with fire-extinguishers for the extinguishment of fire, one to be kept in each end of each of such cars, to be maintained in good condition for use and in a safe and convenient position; and each of said companies shall also equip and provide each of such cars with two axes and two saws, one of each of such tools to be kept upon the inside and one of each upon the outside of each car, and to be kept in convenient places for use in case of accident. (*Id.* § 2.)

**\*§ 77x. Violation of this act—Penalty.**

The neglect to comply with any of the provisions of this act, is hereby declared to be unlawful; and any railroad company or corporation which shall do or cause to be done any act or thing forbidden to be done, or which shall neglect to do any act or matter which is enjoined and required by any provision of this act, shall be guilty of a misdemeanor, and shall, upon conviction thereof in any court of this state within whose jurisdiction such offense was committed, be subject to a fine of not more than one thousand dollars for each offense: *provided, however*, its principal officer or traffic manager, by whatever name called, or the agent or person who shall be guilty of any such violation of this act, shall be personally liable as and for a misdemeanor; and, upon conviction thereof in any court of this state within whose jurisdiction such offense was committed, shall be subject to a fine of not more than one thousand dollars for each offense: *provided*, that the operation of sections two and three of this act may be modified, suspended, or nullified by the board of railroad and warehouse commissioners of the state, in their discretion. (*Id.* § 3.)

## ACT OF EXTRA SESSION, 1881.

**\*§ 77y. Duties as to discrimination and extortion.**

That the railroad commissioner shall have the power and it shall be his duty to investigate, upon the written request of any person or firm, any complaint against any railroad company in this state in regard to unjust discriminations or extortions, and to use his influence to correct the same. (1881, *Ex. Sess. c. 66*, § 1.)

**\*§ 77z. Supervision of railroads and bridges—Reports.**

That he shall examine all bridges and tracks reported to him as unsafe, so far as he may be able to do so, and exercise a general supervision over all railroads in this state, and shall report to the legislature, at its next session thereafter, any failure or refusal of any railroad company to do what he deems equitable and just, and for the best interests of the people, and not against the successful and profitable operation of the same. (*Id.* § 2.)

## COMMISSIONER OF STATISTICS.\*

**\*§ 80. Township assessor and county auditor to report crops, etc.—Compensation.**

Each township assessor shall, on the first Monday in July, annually, transmit to the county auditor a complete statement in abstract of the number of acres cultivated for the current year within his assessment district in each of the following crops, together with the area and product for the year immediately preceding, of wheat, rye, oats, barley, buckwheat, corn, beans, peas, potatoes, sorghum, cultivated and wild hay, flax, hops, fruit trees in bearing, berries, bees, honey, and other farm produce; and also the number of milch cows two years old and over, cattle under two years old, and other cattle two years old and over, horses under three years old and horses over three years old, mules, sheep, hogs, and poultry. Suitable blanks for such statements shall be furnished to said assessors by the county auditor, prepared and supplied by the commissioner of statistics. Any assessor who shall fail or omit to perform said duties in any respect shall be subject to a forfeiture of a sum not exceeding fifty dollars for each and every offense; and it shall be the duty of the county auditor to inform the county attorney, for prosecution for the recovery of said penalty, in every instance of such delinquency. Each county auditor shall carefully compile and forward to the commissioner of statistics a full abstract of said returns on the second Monday of July, under a penalty of fifty dollars, to be forfeited to the state, for every failure to perform such duty, which said abstract shall be tabulated in convenient form for general information, and a printed copy furnished to each and every newspaper in the state by said commissioner, as soon as practicable thereafter, and not later than the third Monday of July annually. The township assessors shall receive, as compensation for making the statement required by this section to be returned to the county auditor, at the rate of ten cents for each form so returned, which said sum shall be paid by the state. Upon the return of said abstract statement to the county auditor, if the same is correctly made out, he shall issue an order to the assessor for the amount due him on the treasury of the state, which said order shall be received in payment of state taxes. (1870, c. 25, § 3, *as amended*, 1876, c. 87, § 1; 1885, c. 113.)

**\*§§ 81, 82, 83, 84, † 85. Vital statistics.**

[These sections were repealed by Gen. Laws 1887, c. 114, § 9. See *post*, \*§§ 102a–102i.]

\*For provisions of Gen. Laws 1885, c. 143, in relation to state census, see *post*, c. 124.

†§ 84 was amended 1885, c. 103.

## PUBLIC EXAMINER.\*

**\*§ 96. Salary and contingent fund—Indirect compensation prohibited.**

For the services required under this act the public examiner shall receive an annual salary of thirty-five hundred dollars, and a contingent fund of fifteen hundred dollars, of which one thousand dollars shall be paid for clerk hire, and the remainder, or so much thereof as may be necessary, for the incidental expenses of his office, which sums shall be paid by the state treasurer in the same manner as other salaries and expenses of state officers are paid; and if the said examiner shall directly or indirectly receive any compensation or pay for any services or extra service, or for neglect of service, other than is provided in this act, he shall be deemed guilty of felony, and, on conviction thereof, shall be subject to a fine not exceeding ten thousand dollars, or imprisonment in the state prison not exceeding ten years, or both, in the discretion of the court. (1878, c. 83, § 8, *as amended* 1881, c. 58, § 1.)

**\*§ 96a. Deputy public examiner—Oath—Bond—Duties.**

The public examiner may appoint a deputy who shall take and subscribe the oath of office required by law, and who shall execute to the state a bond, with two or more sureties, in the penal sum of ten thousand dollars, for the faithful discharge of his duties. In case of the necessary absence or inability of the public examiner, the deputy shall perform the several duties required of that officer. Said oath and bond shall be filed in the office of the secretary of state. (1887, c. 218, § 1.†)

**\*§ 96b. Appropriation.**

There is hereby annually appropriated the sum of eighteen hundred dollars out of any funds in the state treasury not otherwise appropriated, for the salary of the said deputy, and also the further sum of seven hundred dollars for clerk hire, traveling, and other expenses of the public examiner's office. (*Id.* § 2.)

## STATE BOARD OF HEALTH.‡

**\*§ 99a. Pollution of sources of water supply.**

No sewage, drainage, or refuse, or polluting matter of such kind as, either by itself or in connection with other matter, will corrupt or impair the quality of the water of any spring, well, pond, lake, stream, or river for domestic use, or render it injurious to health, and no human or animal excrement shall be placed in or discharged into, or placed or deposited upon the ice of any pond, lake, stream, or river, used as a source of water supply by any town, village, or city; nor shall any such sewage, drainage, refuse, or polluting matter or excrement be placed upon the banks of any such pond, lake, stream, or river, within five miles above the point where such supply is taken, or into any feeders or the banks thereof, of any such pond, lake, stream, or river: *provided*, nothing in this section contained shall apply to Lake Superior. (1885, c. 225, § 1.¶)

**\*§ 99b. Supervision of state board of health—Procedure.**

The state board of health shall have the general supervision of all springs, wells, ponds, lakes, streams, or rivers used by any town, village, or city as a

\*For the duties of the public examiner under the banking laws, see Laws 1887, c. 183; *ante*, page 67, § 14a. For his duties in relation to the bonds of county officers, see *post*, page 142.

†By § 3, this act was to take effect from and after March 1, 1887. The act was approved March 8, 1887.

‡See Health Code, Gen. Laws 1883, c. 132; *post*, page 927 *et seq.*

¶Entitled "An act to prevent the pollution of rivers and sources of water supply." Approved March 7, 1885. Took effect from and after its passage.

source of water supply, with reference to their purity, together with the waters feeding the same, and shall examine the same from time to time, and inquire what, if any, pollution exists, and their causes. In case of a violation of any of the provisions of section one of this act, said board may appoint a time and place for hearing parties to be affected, and shall give due notice thereof, as hereinafter provided, to such parties; and after such hearing, if in its judgment the public health requires it, may order any person or corporation, or municipal corporation, to desist from the acts causing such pollution, and may direct any such person or corporation to remedy the pollution, or to cleanse or purify the polluting substances in such a manner and to such a degree as shall be directed by said board, before being cast or allowed to flow into the waters thereby polluted, or placed or deposited upon the ice or banks of any of the bodies of water in the first section of this act mentioned. Upon the application of the proper officers of any town, village, or city, or of not less than ten legal voters of any such town, village, or city, to said state board, alleging the pollution of the water supply of any such town, village, or city, by the violation of any of the provisions of this act, said state board shall investigate the alleged pollution, and shall appoint a time and place when and where it will hear and examine the matter, and shall give notice of such hearing and examination to the complainant, and also to the person or corporation or municipal corporation alleged to have caused such pollution, and such notice shall be served not less than ten days prior to the time so appointed, and shall be served in the same manner that now is or hereafter may be by law provided for the service of a summons in a civil action in the district court. Said board, if in its judgment any of the provisions of this act have been violated, shall issue the order or orders already mentioned in this section. (1885, c. 225, § 2.)

**\*§ 99c. Injunction.**

The district court, or the judge thereof, may, upon the complaint of said state board, or of the proper authorities of any town, city, or village whose sources of water supply shall be so polluted, issue an injunction to enforce the orders of said state board. (*Id.* § 3.)

**\*§ 99d. Appeal.**

Such orders of the state board shall be served upon the persons, corporations, or municipal corporations found to have violated any of the provisions of this act, and any party aggrieved thereby shall have the right to appeal to the district court of the county in which is situate the town, village, or city whose source of water supply is found to have been polluted, and such aggrieved party shall have the right to a trial by jury in the same manner as in a civil action in said court. During the pendency of the appeal the pollution against which the order has issued shall not be continued contrary to the order of the state board, and upon the violation of the order the appeal shall forthwith be dismissed. (*Id.* § 4.)

**\*§ 99e. Procedure on appeal.**

Any person, corporation, or municipal corporation desiring to appeal from any such order of the state board, shall, within thirty days after the service upon him or it of a copy of such order, file in the office of the clerk of the district court of the proper county, a notice of such appeal, together with a bond in the sum of not less than two thousand dollars, with two sureties, to be approved by the judge of said court, conditioned for the prosecution of such appeal to judgment, and for the payment of all the costs and disbursements that may be adjudged against him or it therein, and shall, within three days after such filing, serve a copy of such notice and bond upon the secretary of said board; and said secretary shall, within ten days thereafter, deliver such



copies so served upon him to the mayor or other chief executive officer of any such city, village, or town, whose source of water supply has been found to have been so polluted. (*Id.* § 5.)

**\*§ 99f. Report of water boards, water companies, etc.—  
Default—Penalty.**

Water boards, water commissioners, water companies, and the proper officers of any city, village, or town, making use as a source of water supply of any well, spring, pond, lake, stream, river, reservoir, or well, within, or partly within, this state, and distributing the waters thereof for public, domestic, and general uses, shall, from time to time, and whenever required by said state board, make returns to said board, upon blanks to be furnished by it, of such matters as may be required by said board and called for by such blanks, and any such water board, water commissioners, water company, or officers of any city, village, or town, who shall, for the space of thirty days after being furnished with such blanks, fail or neglect to make any such report so required, shall, for each and every such neglect or failure, forfeit and pay the sum of one hundred dollars, for the use of the local board of health, or the proper officer acting as such, of the city, town, or village where such delinquent has its principal office. Said state board shall, in the name of the state, prosecute in the district court of the proper county an action for the recovery of the penalty or forfeit herein imposed. (*Id.* § 6.)

**\*§ 102. Salary of secretary and expenses of board.**

The secretary of the board shall receive from the treasury, in quarterly payments, an annual salary of twenty-five hundred dollars, and his necessary and actual traveling expenses incurred in the performance of official duties, after they have been audited by the board and approved by the governor; and all other necessary expenses arising in his office shall be paid out of the treasury in the same manner as those of the different departments of state government: *provided*, that the expenses of said board shall not exceed the sum of fifteen hundred dollars per annum. (1872, c. 15, § 5, *as amended* 1873, c. 7, § 1; *Ex. Sess.* 1881, c. 21, § 1; 1885, c. 93.)

**\*§ 102a. Vital statistics—Collection by local officers.**

The clerk of each town and the health officer of each village, borough, or city in this state, shall obtain and register the following facts concerning the births and deaths occurring therein, separately numbering and recording the same in the order in which he obtains them, designated in separate columns, viz.: In the registry of births, the date of birth, the name of the child, (if it have any,) the sex and color of the child, the names and places of birth of the parents, and the date of the record. In the registry of deaths, the date of death, the sex and color, the condition, whether single, widowed, or married, the names and places of birth of the parents, the disease or cause of death, and the date of the record. The county auditor of each county shall furnish each clerk or health officer within his county, at the expense of the county, a book in which to register the facts concerning the births and deaths, as above provided: *Provided, however*, that in cities of over one hundred thousand inhabitants, where the duties hereby imposed upon the health officer have heretofore been imposed upon the city clerk, the latter shall continue to perform the same, and receive the compensation therefor. (1887, c. 114, § 1.)\*

**\*§ 102b. Notice of births and deaths.**

Parents shall give notice to such clerk or health officer of the births and deaths of their children; every householder shall give like notice of every

\*Entitled "An act to provide for the collection of vital statistics." Approved March 8, 1887. Takes effect from and after its passage.

birth and death happening in the house; the oldest persons next of kin shall give such notice of the death of his kindred; the keeper or other proper officer of every work-house, poor-house, reform school, jail, prison, hospital, asylum, or other public or charitable institution, shall give like notice of every birth or death happening among the persons under his charge. Whoever neglects or refuses to give such notice for the period of ten days after the occurrence of a birth or death, shall forfeit a sum not exceeding twenty dollars, to be collected as other fines are collected by law. (1887, c. 114, § 2.)

**\*§ 102c. Physicians to give notice of births and deaths.**

Any physician having attended a person during his last illness, shall, within ten days after the decease of such person, furnish, for registration, to such clerk or health officer, a certificate of the duration of the last illness, the name of the deceased, his age, the disease of which the person died, and the date of his decease. And any physician or midwife having attended a case of confinement shall within ten days thereafter furnish, for registration, to such clerk or health officer, a certificate of the date of birth, sex, and color of the child, with the names, dates, and places of births of the parents. If any physician or midwife neglects to make such certificate, he shall forfeit the sum of twenty-five dollars, to be collected as other fines are collected by law. (*Id.* § 3.)

**\*§ 102d. Returns by clerks and health officers.**

Such clerk or health officer shall, on or before the fifth day of each month, transmit to the secretary of the state board of health and vital statistics, upon blanks to be furnished by said board, a certified copy of the registry of births and deaths which have occurred within such town, village, borough, or city, during the calendar month immediately preceding. For obtaining, registering, and returning the facts herein required, such clerk or health officer shall be entitled to receive from the county treasury of his county twenty-five cents for each birth or death so obtained, registered, and reported. And for any neglect to perform such duties as herein required he shall forfeit a sum not exceeding fifty dollars for each offense, to be collected as other fines are collected. (*Id.* § 4.)

**\*§ 102e. Blanks—Returns to clerk of district court.**

It shall be the duty of the state board of health and vital statistics to prepare and furnish to such clerks and health officers suitable blanks and instructions for the making of the returns herein provided for. And the secretary of said state board of health and vital statistics shall annually, on or before the fifteenth day of January of each year, transmit to the clerk of the district court of each county all of the said returns received by said secretary from such clerks or health officers in such county during the year ending on the last day of the preceding December, together with his certificate showing the aggregate number of births and deaths so reported in such year by each such clerk and health officer. (*Id.* § 5.)

**\*§ 102f. Filing returns—Compensation of clerk.**

The said clerk of the district court shall thereupon file the said returns, so to him transmitted, in his office, and shall also issue to each such town clerk and health officer a certificate showing the amount due to them respectively for the obtaining, registering, and reporting the births and deaths aforesaid, as the name may appear from the said certificate of said secretary of the state board of health and vital statistics. For all his said services such clerk of the district court shall be entitled to receive from the county treasurer of his respective county, for recording such births and deaths, and making such abstract thereof as he may by law be required to make, the sum of ten cents for

each such birth or death. And for his failure to perform any of the duties herein provided for, such clerk of the district court shall forfeit the sum of fifty dollars, to be collected as other fines are collected. (*Id.* § 6.)

**\*§ 102g. Payment of fees.**

The county auditor of each county, upon the presentation to him of the aforesaid certificate of the clerk of the district court of his county, shall issue and deliver to each clerk and health officer, respectively, his warrant upon the county treasurer for the amount in said certificate stated to be due to such clerk or health officer; and the county treasurer, upon the presentation of such warrant, shall pay the same, to the person entitled thereto, out of the general funds in the county treasury. (*Id.* § 7.)

**\*§ 102h. Appropriation.**

To cover all clerk hire, stationery, and incidental expenses of the state board of health and vital statistics, under this act, the sum of one thousand dollars shall be and hereby is annually appropriated. (*Id.* § 8.)

**\*§ 102i. Repeal.**

Sections eighty-one, eighty-two, eighty-three, eighty-four, and eighty-five of chapter six of General Statutes of one thousand eight hundred and seventy-eight, and all other acts and parts of acts inconsistent with this act, are hereby repealed. (*Id.* § 9.)

STATE BOARD OF IMMIGRATION.

[State board of immigration\* abolished. See repealing acts, Gen. Laws 1887, cc. 155, 165.]

INSPECTOR OF ILLUMINATING OILS.

**\*§§ 116, 118. Inspection and branding—Unlawful sales—Penalties.**

The act complained of must appear clearly within the prohibition of the statute. *State v. Finch*, (Minn.) 34 N. W. Rep. 904. The statute held not to include within its prohibitions a sale of oil after it had been properly inspected and branded, although it had been subsequently removed to an unbranded receptacle, from which it was sold. *Id.*

STATE BOARD OF CORRECTIONS AND CHARITIES.†

**\*§ 124. State board of corrections and charities—Membership—Vacancies.**

The governor, with the advice and consent of the senate, shall appoint six persons, not more than three of whom shall be from the same political party, who shall constitute a state board of corrections and charities, to serve without compensation, their traveling expenses only being defrayed by the state; two of whom, as indicated by the governor upon their appointment, shall serve for one year, two for two years, and two for three years; and upon the expiration of the term of each, his place, and that of his successor, shall, in like manner, be filled for the term of three years. The governor shall be *ex officio* a member of said board and the president thereof. Appointments to fill vacancies caused by death, resignation, or removal before the expiration

\*Amendatory acts: 1879, c. 76; 1881, c. 34; 1883, c. 11; 1883, c. 154.

†Entitled "An act to establish a state board of corrections and charities for the state of Minnesota." Approved March 2, 1883.

of such terms, may be made for the residue of terms in the same manner as original appointments. (1883, c. 127, § 1.)

**\*§ 125. Meetings to be held quarterly—Duties of board—Investigation.**

The state board of corrections and charities shall be provided with a suitable room in the state house. Regular meetings of the board shall be held quarterly, or oftener if required. They may make such rules and orders for the regulation of their own proceedings as they may deem necessary. They shall investigate the whole system of public charities and correctional institutions of the state, examine into the condition and management thereof, especially of prisons, jails, infirmaries, public hospitals, and asylums; and the officers in charge of all such institutions shall furnish to the board, on their request, such information and statistics as they may require; and to secure accuracy, uniformity, and completeness in such statistics, the board may prescribe such forms of report and registration as they may deem essential; and all plans for new jails, lockups, and infirmaries shall, before the adoption of the same by the county or municipal authorities, be submitted to said board for suggestion and criticism. The governor, in his discretion, may, at any time, order an investigation by the board, or by a committee of its members, of the management of any penal, reformatory, or charitable institution of the state; and said board or committee, in making any such investigation, shall have power to send for persons and papers, and to administer oaths and affirmations; and the report of such investigation, with the testimony, shall be made to the governor, and shall be submitted by him, with his suggestions, to the legislature. (1883, c. 127, § 2, *as amended* 1887, c. 93, § 1.)

**\*§ 126. Secretary and clerk—Salaries—Appropriation.**

The said board may appoint a secretary and a clerk, whose salaries they may establish and determine, and there is hereby appropriated from any funds in the state treasury not otherwise appropriated, for the expenses of the said board, the sum of five thousand dollars, or so much thereof as may be necessary, for each year, ending July thirty-first, one thousand eight hundred and eighty-eight, and July thirty-first, one thousand eight hundred and eighty-nine. All accounts and expenditures shall be certified as may be provided by the board, and shall be paid by the state treasurer upon an order drawn by the auditor of state. (1883, c. 127, § 3, *as amended* 1885, c. 35, § 1; 1887, c. 93, § 2.)

**\*§ 127. Board to make biennial reports.**

The state board of corrections and charities shall, every two years, make a full report of all their doings during that period, stating in detail all expenses incurred, and showing the actual condition of all the state and county institutions, and making such suggestions as they may deem advisable; of which report two thousand copies shall be printed for the use of the legislature, and one thousand copies for the use of the board. (1883, c. 127, § 4, *as amended* 1885, c. 35, § 2.)

**\*§ 128. Visitation—Report.**

Whenever the governor shall deem it advisable and expedient to obtain information in respect to the condition and practicable workings of charitable, penal, pauper, and reformatory institutions in other states, he may authorize and designate any member or members of said board, or the secretary thereof, to visit such institutions in operation in other states; and by personal inspection to carefully observe and report to said board on all such matters relating to the conduct and management thereof as may be deemed to be interesting, useful, and of value to be understood in the government and discipline of similar institutions in this state. (1883, c. 127, § 5, *as amended* 1887, c. 93, § 3.)

**\*§ 129. Members not to be interested in contracts.**

No member of said board, or their secretary, shall be either directly or indirectly interested in any contract for building, repairing, or furnishing any institution, poor-house, or jail which by this act they are authorized to visit and inspect; nor shall any officer of such institution, jail, or poor-house be eligible to appointment on the board hereby created. (1883, c. 127, § 6.)

## STATE LAND AGENT.\*

**\*§ 130. State land agent.**

That the governor of this state be and is hereby authorized and empowered to employ a state land agent for the state of Minnesota, whose duty it shall be to investigate and prosecute to final decision, in the proper departments of the government, the claims of the state of Minnesota for lands due or inuring from the United States under the act of congress, approved March twelve, one thousand eight hundred and sixty, granting swamp and overflowed lands to the state of Minnesota, or under any other of the several acts of congress granting lands to said state. (1881, c. 99, § 1.)

**\*§ 131. Duties.**

It shall be his further duty to investigate the circumstances attending the several grants of land made by congress to the state of Minnesota, and adjust and maintain the rightful interests of the state derived therefrom, and, when so directed by the governor, he shall visit the several United States land-offices within the state and inquire into the causes which lead to the wrongs suffered by settlers, and he shall generally, under the direction of the governor, act as the agent of the state in the adjustment of any unsettled or conflicting matters pertaining to the landed interests of the state. (*Id.* § 2.)

**\*§ 132. Bond.**

Before entering upon the duties of his agency, such agent shall execute to the state of Minnesota a bond, with good and sufficient security, to be approved by the governor and auditor of state, in the sum of five thousand dollars, conditioned for the faithful performance of every duty imposed by the provisions of this act. (*Id.* § 3.)

**\*§ 133. Compensation.**

Said agent shall receive a compensation at a rate not to exceed fifteen hundred dollars per annum, to be paid as the salaries of other state officers are paid, as full compensation for all services rendered, and also for all expenses incurred in the performance of the duties imposed by this act, and for the payment of such salary there is hereby annually appropriated for a term of two years, out of any moneys in the general revenue fund not otherwise appropriated, the sum of fifteen hundred dollars. (*Id.* § 4.)

## BUREAU OF LABOR STATISTICS.†

**\*§ 134. Commissioner of labor statistics.**

The governor, with the advice and consent of the senate, is hereby authorized and directed to appoint, as soon after the passage of this act as may be, and thereafter annually on the first Monday in the month of January, a suitable person to act as commissioner of labor statistics, and with headquarters at the capitol. (1887, c. 115, § 1.)

\*Entitled "An act to authorize the appointment of an agent to prosecute certain land claims against the United States." Approved March 4, 1881.

†Entitled "An act establishing a bureau of labor statistics, and appropriating money for the maintenance thereof." Approved March 8, 1887.

**\*§ 135. Duties—Annual report.**

The duties of such bureau shall be to collect, assort, systematize, and present in annual reports to the legislature on or before the first Monday in the month of January every year, statistical details relating to all departments of labor in the state, especially in its relations to the commercial, industrial, social, educational, and sanitary condition of the laboring classes; to visit and examine factories and all other establishments where people are employed at any kind of labor; and for this purpose the commissioner shall have power to enter the same and examine the methods of protection, and make a record thereof. He shall see to it that all laws regulating the employment of children, minors, and women, and all laws established for the protection of the health and the lives of operatives in workshops and factories are enforced, and he shall have power to prosecute offenders against the same in any court of competent jurisdiction. He shall, in his annual report, give an account of all violations of the above-named laws which he has observed, and his proceedings under the same, together with such remarks, suggestions, and recommendations as he may deem necessary. (1887, c. 115, § 2.)

**\*§ 136. Duties of employers—Violation—Penalty—Commissioners' report.**

All employers of labor shall, upon request, permit the commissioner of the bureau to enter his factory or workshop, and make to such bureau of labor statistics such report and returns as the said bureau may require for the purpose of compiling such labor statistics; such reports and returns to be verified by the owner or business manager of such concern; and the said bureau may for such purpose prescribe blank forms, which shall be furnished by the secretary of state, and every employer who shall refuse to permit the commissioner of the bureau to enter his factory or workshop, or who shall fail to make such report or return within the time prescribed therefor, shall forfeit the sum of ten dollars for each and every day the same shall be delayed. All such forfeits shall be sued for in the name of the state of Minnesota, and shall be paid into the school fund. The annual report of the commissioner of labor statistics provided for by section two of this act shall be printed and distributed in the same manner and under the regulations as the reports of the executive officers of the state. (*Id.* § 3.)

**\*§ 137. Testimony—Subpoenas.**

The commissioner of the bureau shall have power to issue subpoenas, administer oaths, and take testimony in all matters relating to the duties herein required by said bureau; such testimony to be taken in some suitable place in the vicinity to which such testimony is applicable. Witnesses subpoenaed and testifying before the commissioner shall be paid the same fees as witnesses before a circuit court, such payment to be made from the contingent fund of the bureau. (*Id.* § 4.)

**\*§ 138. Salaries—Expenses—Clerk.**

The compensation of said bureau shall be fifteen hundred dollars annual salary for the commissioner, and a sum not exceeding five hundred dollars per annum shall be allowed for his necessary traveling and contingent expenses, which shall include the printing of reports, and all other expenses connected with the bureau. The said commissioner to be allowed a clerk at an annual salary of one thousand dollars. (*Id.* § 5.)

**\*§ 139. Appropriation.**

There is hereby annually appropriated out of any money in the treasury not otherwise appropriated, the sum of three thousand dollars, or so much thereof as may be necessary to carry out the provisions of this act. (*Id.* § 6.)

## INSPECTORS OF STEAM-VESSELS AND STEAM-BOILERS.\*

**\*§ 140. Appointment—Term of office—Duties.**

There shall be appointed by the governor a board of three inspectors, whose duty it shall be to inspect all steam-boilers in use within the state not subject to inspection under the laws of the United States, and to examine and grant certificates of license to all steam engineers, intrusted with the care and management of steam-boilers. Said inspectors shall hold their respective offices for three years from the date of appointment, unless sooner removed for cause by the governor. (1885, c. 148, § 2.)

**\*§ 141. Eligibility—Oath.**

No person shall be eligible to hold the office of inspector of boilers who is either directly or indirectly interested in the manufacture or sale of boilers or steam machinery, or any patent article required to be used or of general use in the construction of steam engines or boilers, or who is not of good moral character and suitably qualified by experience in the construction of steam-boilers, or such experience in their manufacture as to enable him to perform the duties of the office, and no person shall enter upon or perform any of the duties of inspector who has not taken and subscribed an oath, and filed the same with the secretary of state, that he will faithfully and impartially perform the duties of his office. (*Id.* § 3.)

**\*§ 142. Sessions—Rules and regulations—Effect.**

Said inspectors shall, in April next, after the passage of this act, and each year thereafter, meet as a board at the capitol in St. Paul, and establish such rules and regulations, for the inspection of steam-boilers herein provided for, as shall be required by the terms of this chapter. They shall also prescribe rules and regulations for the inspection of the hulls, machinery, boilers, steam connections, fire apparatus, life-saving appliances, and equipments of all steamers propelled in whole or in part by steam, and navigating the inland waters of the state. They shall also designate the number of passengers that each steam-vessel may safely carry, and it shall be unlawful for any master or owner of any steam-vessel herein provided for, to carry a greater number of passengers than is allowed by the inspector's certificate, and such regulations, when approved by the governor, shall have the force of law. (*Id.* § 4.)

**\*§ 143. Duty of owners—Violation—Penalty.**

Every owner, lessee, or other person having charge of steam-boilers, or any boat propelled in whole or in part by steam, not subject to inspection under the laws of the United States, shall cause the same to be inspected at least once in each year, by the inspectors herein provided for, and every such owner, lessee, or person having charge of such boilers or steam-vessel, who shall raise steam and operate such boilers and machinery without such inspection, shall be subject to a penalty of one hundred dollars, said amount to accrue to the state. (*Id.* § 5.)

**\*§ 144. Inspection of steam-vessels—Certificate.**

The said inspectors shall, once in each year at least, upon application in writing of the owner, lessee, or manager, carefully inspect the hull, boiler, machinery, and equipments of all steam-vessels liable to inspection under this act, and shall satisfy themselves that every such vessel is of a structure suit-

\*Entitled "An act to establish a board of inspectors for steam-vessels and steam-boilers, and to provide for licensing engineers of steam-engines, and to amend chapter 111 of the General Laws of Minnesota for the year 1881." Approved March 10, 1885. Section 1 amended c. 111, Gen. Laws 1881, so as to read as follows in the text. Section 16 repealed all inconsistent acts and parts of acts. Took effect from and after April 15, 1885.

able for the service in which she is to be employed, and has suitable accommodations for passengers and the crew, and is in a condition to warrant the belief that she may be used in navigation as a steamer with safety to life, and that such equipments as life-preservers, floats, pumps, hose, anchors, and other things necessary to insure safety, have been provided. When the inspection of a steam-vessel is completed, and the inspectors approve the vessel and her equipments throughout, they shall make and subscribe a certificate to the secretary of state, in such form as the board of inspectors shall prescribe. Such certificate shall be subscribed and verified by the oath of the inspector making it, and a copy of said certificate shall be furnished by the inspector to the managing owner or master of said steam-vessel, who shall post the same in a conspicuous place on said boat. The original certificate shall be kept on file in the office of the secretary of state. (1885, c. 148, § 6.)

**\*§ 145. Inspection of boilers—Regulations.**

The said inspectors shall, in addition to their duties as inspectors of steam-vessels, inspect all steam-boilers or steam-generators before the same shall be used, and once at least in every year thereafter, they shall subject all boilers to hydrostatic pressure, and shall satisfy themselves by a thorough examination that the boilers are well made of good and suitable material, that the openings for the passage of water and steam respectively, and all pipes and tubes exposed to heat, are of proper dimensions and free from obstructions; that the flues are circular in form; that the friction [fire-line] of the furnace is at least two inches below the prescribed minimum water-line of the boilers; that the arrangements for delivering the feed-water is such that the boilers cannot be injured thereby; and that such boilers and their steam connections may be safely employed without peril to life. They shall also satisfy themselves that the safety-valves are of suitable dimensions, sufficient in number, and properly arranged, and that the safety-valve weights are properly adjusted so as to allow no greater pressure in the boilers than the amount prescribed by the inspection certificate; that there is a sufficient number of gauge-cocks properly inserted, and, to indicate the pressure of steam, suitable gauges that will correctly record the pressure of steam; and that the fusible metals are properly inserted so as to fuse by the heat of the furnace, whenever the water in the boilers falls below its prescribed limits, and that adequate and certain provisions for an ample supply to feed the boilers at all times, so that in high-pressure boilers the water shall not be less than four inches above the top of the flues, and that means for blowing out are provided, so as to thoroughly remove the mud and sediment from all parts of the boiler, when they are under pressure of steam. In subjecting to the hydrostatic tests boilers usually designated as high pressure, the inspectors shall assume one hundred and twenty-five pounds to the square inch as the maximum pressure allowable as a working pressure for new boilers of forty-two inches in diameter, made in the best manner, of plates one-fourth of an inch thick, of good material; but the inspector shall rate the working power of all high-pressure boilers according to their strength, compared with this standard, and in all cases the test applied shall exceed the working power allowed, in the ratio of one hundred and sixty-five to one hundred and ten. In subjecting to the hydrostatic test boilers usually designated as low pressure, the inspectors shall allow as a working power for each new boiler a pressure of only three-fourths the number of pounds to the square inch to which it has been subjected by the hydrostatic test. Should the inspectors be of the opinion that any boiler, by reason of its construction or material, will not safely allow so high a working pressure as herein provided, they may, for reasons to be stated specially in their certificate, fix the pressure of such boiler at less than three-fourths of the test pressure. No boiler or steam-pipe, nor any of the connections therewith, shall be approved, which is made in whole or part of bad material, or is unsafe from



any cause. Nothing herein shall be construed to prevent the use of any boiler or steam-generator which may not be constructed of riveted iron or steel plates, when the board of inspectors have satisfactory evidence that such boiler or steam-generator is equal in strength and as safe from explosion as boilers of the best quality constructed of riveted iron or steel plates. (*Id.* § 7.)

**\*§ 146. Manufacturing defective steam apparatus — Penalty.**

Every person who constructs a boiler or steam-pipe, of iron or steel plates, known to be faulty or imperfect, or who drifts any rivet-hole to make it come fair, or who delivers any such boiler for use, knowing it to be imperfect in its flues, flanging, riveting, bracing, or in any other of its parts, shall be fined two hundred dollars, one-half for the use of the informer. (*Id.* § 8.)

**\*§ 147. Special inspections — Operating condemned boiler — Penalty.**

In addition to the annual inspection, it shall be the duty of the inspectors to examine, at proper times, when in their opinion such examination shall become necessary, all such boilers as shall become unsafe from any cause, and to notify the owners or person using such boilers of any defect, and what repairs are necessary in order to render them safe, and it shall be the duty of the person operating any such boiler to cease to use the same until such repairs are made, and in case of failure to comply with the requirements of said inspector, the person operating any such boiler shall be liable to a fine not exceeding one hundred dollars, and liable for any damage to person or property resulting therefrom. (*Id.* § 9.)

**\*§ 148. Equipment of boilers—Fusible plug.**

Every steam-boiler shall be provided with a fusible plug of good Banca tin inserted in the flues, crown-sheet, or other parts of the boiler most exposed to the heat of the furnace when the water falls below the prescribed limits. (*Id.* § 10.)

**\*§ 149. Owners and engineers—Duties.**

It shall be the duty of owners or managers of steam-boilers, mentioned in this act, to allow said inspectors free access to the same, and it is hereby made the duty of engineers operating the same to assist the inspectors in their examinations, and to point out any defect they may know in the boiler or machinery in their charge. (*Id.* § 11.)

**\*§ 150. Engineers—Qualification and license.**

No person shall be intrusted with the operating of any steam-boiler or steam machinery who has not been examined by an inspector and found competent to perform the duties of an engineer, and received from such inspector a written or printed license to so act. Engineers shall be divided into three classes, viz.: Chief engineer, assistant engineer, and special engineer. No license shall be granted to any person to perform the duties of chief engineer whose knowledge of steam machinery and experience as an engineer is not such as to justify the belief that he is competent to take charge of all classes of boilers and machinery. No license shall be granted to any person to act as assistant engineer unless his knowledge of steam machinery and habits of life are such as to warrant the belief that he is competent to manage safely, and without danger to life, ordinary steam machinery. Special engineers may be licensed to operate steam thresher engines, and engines of kindred class, where found, on examination, to be sufficiently acquainted with the duties of an engineer to warrant the belief that he can safely be intrusted to perform such duty. Whenever complaint is made against an engineer holding a license from a state

inspector that he has, through negligence, want of skill, or inattention to duty, permitted his boilers to burn or otherwise become in bad condition, it shall be the duty of the inspector, upon satisfactory proof of such negligence, to revoke the license of such engineer. (1885, c. 148, § 12.)

**\*§ 151. Inspectors—Mode of action—False certificate—Penalty.**

In making the inspection of boilers, machinery, or steam-vessels herein provided for, the inspectors may act jointly or separately, but the inspector or inspectors making such inspections shall in all cases subscribe and make oath to the certificate of inspection. Any inspector who shall willfully certify falsely regarding any steam-boiler or their attachments, or the hull and equipments of any steam-vessels, shall, on conviction thereof, be punished by a fine not exceeding five hundred dollars, or imprisonment not exceeding one year, in the state prison, or both, at the discretion of the court. (*Id.* § 13.)

**\*§ 152. Fees.**

The inspectors shall be authorized to charge a fee of five dollars for the inspection of each single boiler and its steam connections, and two dollars for each additional boiler when connected, said fee being payable at the time of the delivery of the inspector's certificate of approval. The fee for the examination of engineers and for the issuing of a license certificate shall be one dollar, and for the annual renewal of the same, fifty cents; said amounts to be equally divided among the inspectors, who shall receive no other compensation for their services. (*Id.* § 14.)

**\*§ 153. Application of act.**

This act shall not apply to railroad locomotives nor to boilers owned or controlled by railway companies, unless used upon steam-vessels navigating the inland waters of the state, nor shall it apply to boilers inspected by insurance companies, and certified by their authorized inspectors to be safe. Nor shall engineers employed by railroad companies be required to procure licenses from the state board of inspectors, but the penalties herein provided for shall not obtain in any case prior to the time the inspector or inspectors have notified the persons affected that they are ready to make the inspection as herein provided for. (*Id.* § 15.)

OFFICIAL BONDS OF STATE OFFICERS.\*

**\*§ 154. Official bonds of state officers—Approval.**

That all official bonds of state officers, and of the treasurers of the several public, educational, charitable, penal, and reformatory institutions belonging to the state, shall be approved by a board of auditors, consisting of the governor, secretary of state, and attorney general, or by the governor and one other of said officers. (1883, c. 131, § 1.)

**\*§ 155. Same—Filing and recording.**

Said bonds shall be deposited with the secretary of state, who shall file, record, and retain the same for the use of all persons interested therein. (*Id.* § 2.)

**\*§ 156. Approval of attorney general.**

Previous to such filing the secretary of state shall obtain in writing upon all such bonds the approval of the attorney general as to their statutory form.

\*"An act providing for the approval and custody of the bonds of state officers and of the treasurers of the several public institutions of the state" Approved March 1, 1883. Section 6 repeals all inconsistent acts.

and execution, and in case of his non-approval on account of any defect in the form or execution of the same, the attorney general shall indorse thereon the reasons for such non-approval, and the secretary of state shall require the officer or treasurer executing the said bond to execute without delay a bond perfected according to the statutes, which shall be approved, recorded, and filed as herein provided; but nothing in this act shall be construed as invalidating the original bond for any portion of such officer's or treasurer's term of office previous to the filing of the perfected bond with the secretary of state. (*Id.* § 3.)

**\*§ 157. When new bond required.**

The said board of auditors shall require any of the said officers or treasurers to give a new bond, with sureties to be approved by them, whenever, in the opinion of a majority of said board, the sureties, or any of them, on the original bond are deemed insufficient for any cause; and they shall also require a new bond, with sureties to be approved by them, whenever the penalty of such original bond is deemed insufficient: *provided*, that when a new bond is taken under the provisions of this section, the original bond, and the rights and liabilities of the parties thereto incurred or existing at or prior to the time of the approval and acceptance of such new bond, shall in nowise be affected or impaired. (*Id.* § 4.)

**\*§ 158. Treasurers of public institutions—Bonds.**

That the several boards of trustees and directors of the public institutions of the state be, and are hereby, instructed and required to fix the penal sum of the several treasurers of such institutions high enough to cover double the amount likely to come into their hands officially at any one time during the term for which such bond is given, and that they are required to call promptly for the renewal of the bond of any such treasurer on his reappointment or re-election to such office. (*Id.* § 5.)

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## CHAPTER 7.

### SALARIES OF STATE OFFICERS.

#### TITLE 1.

##### OF STATE OFFICERS.

**\*§ 1. Governor.**

1. The salary of the governor is hereby fixed at five thousand dollars per annum, which shall include house-rent. (1878, c. 70, § 1, *as amended* 1885, c. 40, § 1.)

**Secretary of state.**

2. The salary of the secretary of state is thirty-five hundred dollars per annum, which shall also include his salary for superintending the public printing. (1867, c. 101, § 1, *as amended* 1874, c. 111, § 1; 1887, c. 225, § 2.\*)

**Fees to be turned into state treasury.**

2b. All fees and charges whatever hereafter paid into the office of the secretary of state, including all fees received by such officer during the months of

\*§ 1 of the act of 1887 provides: "That the salary of the secretary of state for the year one thousand eight hundred and eighty-seven, and annually thereafter, shall be thirty-five hundred dollars."