

GENERAL STATUTES

OF THE

STATE OF MINNESOTA

36

IN FORCE

JANUARY 1. 1889.

COMPLETE IN TWO VOLUMES.

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

VOL. 2.

SUPPLEMENT, 1879-1888,

WITH

ANNOTATIONS AND GENERAL INDEX TO BOTH VOLUMES.

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Where not prejudicial to the rights of creditors, a husband may, for the purpose of making a settlement upon and providing for the maintenance of his wife, convey real estate directly to her. *Wilder v. Brooks*, 10 Minn. 50, (Gil. 32.)

Reformation of a voluntary deed from husband to wife. *Redding v. Rozell*, (Mich.) 26 N. W. Rep. 677.

As to mutual releases, see *Leach v. Leach*, (Wis.) 26 N. W. Rep. 754.

Under our statutes giving a married woman absolute control over her personal property, and authorizing her to carry on business on her own account, and, except as respects her real estate, to constitute her husband her agent, and authorizing husband and wife to contract with each other as fully as if the marriage relation did not exist between them, a controversy between a wife and her husband's creditors, as to whether certain personal property belongs to her or her husband, is, as in other cases, to be determined upon the fair preponderance of the evidence. *Laib v. Brandenburg*, 34 Minn. 367, 25 N. W. Rep. 803.

See *Riley v. Mitchell*, 36 Minn. 3, 29 N. W. Rep. 588; *McKinney v. Bode*, 32 Minn. 228, 229, 20 N. W. Rep. 94.

*§ 5. Desertion, etc., of husband or wife.

The rule that, unless the contrary clearly appears to have been intended by the legislature, statutes should be construed to be prospective, and not retrospective, in their scope and operation, applied to the first clause of this section. *Giles v. Giles*, 22 Minn. 348.

As to the authority of the wife in case of abandonment to sell the husband's property for the support of the family, see *Rawson v. Spangler*, (Iowa,) 17 N. W. Rep. 173.

See *Weld v. Weld*, cited in note to c. 62, § 6, subd. 5, *supra*.

*§ 6. Torts of the wife—Liability of husband.

As to the liability of the husband for the torts of the wife, see *Ricci v. Mueller*, (Mich.) 2 N. W. Rep. 23; *Commonwealth v. Flaherty*, (Mass.) 5 N. E. Rep. 258.

*§ 7. Rights of married women.

That from and after the passage of this act women shall retain the same legal existence and legal personality after marriage as before marriage, and shall receive the same protection of all her rights, as a woman, which her husband does, as a man; and for any injury sustained to her reputation, person, property, character, or any natural right, she shall have the same right to appeal, in her own name alone, to the courts of law or equity, for redress and protection, that her husband has to appeal in his name alone: *provided*, this act shall not confer upon the wife a right to vote or hold office, except as is otherwise provided by law. (1887, c. 207.*)

CHAPTER 70.

FEES.

FEES OF CLERKS OF DISTRICT COURTS.†

§ 2. Schedule of fees.

For issuing and sealing every writ, summons, subpoena or process, fifty cents.

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

*"An act to declare and protect the legal, personal identity of married women." Approved February 2, 1887. § 2 repealed all inconsistent laws or portions of laws.

†For fees of the clerk of court of Goodhue county, see Sp. Laws 1879, c. 307; same, Kandiyohi county, Sp. Laws 1887, c. 385; same, Mower county, Sp. Laws 1879, c. 308; Sp. Laws 1881, c. 108; same, Otter Tail county, Sp. Laws 1887, c. 358; same, Rice county, Sp. Laws 1879, c. 308.

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FEEES.

[Chap.

Entering the return of every writ, and filing such writ, ten cents per folio.
Entering an appearance, retraxit, discontinuance, nonsuit, or default, twenty cents.

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

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

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

Every certificate, twenty-five cents.

Calling and swearing grand jury, fifty cents.

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

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

Swearing each witness on trial, ten cents.

Swearing officers to take charge of jury, ten cents.

Entering or taking a recognizance, fifty cents.

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

Receiving and entering a verdict, twenty-five cents.

Entering an action without process, fifty cents.

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

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

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

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

Drawing a special jury, seventy-five cents.

Filing every paper, five cents.

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

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

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

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

Recording certificate of solemnization of marriage, fifty cents.

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

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

Entering a surrender of bail, twenty-five cents.

Issuing commission to take deposition, one dollar.

Issuing *venire facias*, one dollar.

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

Entering forfeiture of recognizance, twenty-five cents.

Entering discharge of bail, twenty-five cents.

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

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

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

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

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

Admission of attorneys, one dollar.

Taxing costs, fifty cents.

Certified copy of marriage record, fifty cents.

Certified transcript of docket entry, fifty cents.

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

Provided, further, that on the holding of any terms of the district court in and for any county in this state, the presiding judge thereof shall, in his discretion, determine and fix by his order the number of deputies which shall in his judgment be necessary for the clerk of said court to have in attendance during said term of said court, and may revoke, modify, or revise said order at pleasure during said term, and thereupon said clerk shall appoint or discharge said deputies in pursuance of such order or its modifications. Such deputy or deputies so appointed shall receive the same fees per diem as said clerk.

For all other services required by law to be performed by such clerk, respectively, such fees as compare favorably with the rates herein prescribed, and as may be established by general rule or order of the court: *provided*, that the fees of clerks of the district court, in actions for the foreclosure of mortgages on real estate, where no trial is had, shall not exceed the sum of four dollars for all services required to be performed by said clerks in such actions: *provided, further*, that no civil action, appeal, or proceeding shall be entered in the clerk's office of said district court until the person desiring such entry shall deposit with said clerk the sum of three dollars on account of fees in the case, and out of which the clerk shall satisfy the fees due in such case as they accrue; and whenever said sum or any further deposit is exhausted, said clerk may require as a condition for further entries or clerk's fees an additional deposit of one dollar for the purposes and application, aforesaid. Any balance remaining with the said clerk after such application and the determination of the case, shall be returned to the party depositing the same, his agent or attorney. This act shall not apply to the counties of Hennepin or Ramsey or Dakota. (*As amended* 1877, c. 120, § 5; 1878, c. 50, § 1; 1883, c. 48, §§ 1, 2; 1885, c. 101.)

The clerk of the district court is not entitled to fees from the county for administering oaths to jurors and witnesses for the state in criminal cases, for the purpose of verifying their accounts for per diem and mileage for attendance at court. *Wilcox v. Sibley*, 34 Minn. 214, 25 N. W. Rep. 351.

The clerk is entitled to twenty cents for searching the records and files for each year in respect to judgments against each person whose name is furnished him, although a number of names are given to him at one time in one order. *Church v. St. Paul & N. P. Ry. Co.*, 33 Minn. 410, 23 N. W. Rep. 860.

***§ 2a. Clerk's fees in counties where compensation is \$800 or less.**

That in counties where the clerks of district courts do not receive compensation for their services to exceed the amount of eight hundred dollars per annum, they shall be entitled to charge and receive fees as follows:

For issuing and sealing every writ, summons, subpoena, or process, seventy-five cents.

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

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

Entering an appearance, *retraxit*, discontinuance, nonsuit, or default, twenty cents.

Entering every rule, order, or motion in term, fifteen cents per folio.

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

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

Every certificate, twenty-five cents.

Calling and swearing grand jury, one dollar.

Calling and swearing petit jury in civil cases, seventy-five cents.

- Swearing jurors in criminal causes, ten cents for each oath administered.
 Swearing triers, ten cents for each oath administered.
 Swearing each witness on trial, fifteen cents.
 Swearing officer to take charge of jury, twenty cents.
 Entering or taking recognizance, seventy-five cents.
 Entering cause on a calendar for the court and making a copy thereof for the bar, twenty cents.
 Receiving and entering a verdict, thirty cents.
 Entering an action without process, sixty-five cents.
 Certified copy of minutes of trial, when required, seventy-five cents.
 Entering final judgment, when the same does not exceed three folios, fifty cents, and fifteen cents for each additional folio.
 Copy of judgment to be attached to judgment roll, fifteen cents for each folio.
 Entering satisfaction of judgment, twenty cents for each debtor.
 Drawing special jury, seventy-five cents.
 Filing every paper, ten cents.
 Copies and exemplifications of records and pleadings, fifteen cents for each folio.
 Searching the records or files in his office, if a copy is not required, twenty cents for the records or files of each year.
 Administering oaths not otherwise provided herein, twenty-five cents.
 Recording credentials of ordination and giving certificate, one dollar.
 Recording certificate of solemnization of marriage, fifty cents.
 Filing and docketing transcript of judgment from another county, or from justice's court, when but one judgment debtor, thirty cents, and twenty cents for each additional judgment debtor.
 Entering an appeal or transcript from justice's court, sixty-five cents.
 Entering a surrender of bail, thirty cents,
 Issuing commission to take deposition, one dollar.
 Issuing *venire facias*, one dollar.
 Certificate of jurors and witnesses in attendance at court, fifteen cents.
 Entering forfeiting of recognizance, thirty cents.
 Entering a declaration to become a citizen of the United States, fifty cents.
 Certified copy of such declaration, under seal of the court, seventy-five cents.
 Entering final admission of an alien to the rights of citizenship, fifty cents.
 A certified copy thereof, under the seal of the court, seventy-five cents.
 Making docket entries of judgments, twenty cents for each judgment debtor.
 Admission of attorneys, two dollars.
 Taxing costs, fifty cents.
 Certified copy of marriage record, fifty cents.
 Certified transcript of docket entry, fifty cents.
 Attendance in court for each day of actual session, three dollars.
 For other services required by law to be performed by such clerk, respectively, such fees as compare favorably with the rates herein prescribed, and as may be established by general rule or order of the court. (1881, c. 120, § 1.)

CLERK'S FEES IN RAMSEY COUNTY.

*§ 4a. Schedule of fees.

The clerk of the district court of Ramsey county shall receive the following fees, namely:

For marriage licenses issued by him the sum of two dollars each, payable by the party to whom the same is issued.

For all real-estate tax judgments entered and docketed by him, the sum of twelve cents each, which sum shall be included in the accrued penalty, costs,

and disbursements taxed in said judgment, and be payable as now prescribed by the general laws of the state.

For having made during the current year, and for making and certifying, to the county auditor, a description of real estate upon which judgment is sought, but where no judgment is had; and for recording births and deaths, and certifying the same to the commissioner of statistics of the state of Minnesota, the same fees as are now prescribed by the general laws of the state of Minnesota, payable out of the county treasury of the county of Ramsey.

For all writs issued by him under the seal of the court, the sum of one dollar, payable by the party ordering the same.

For the entry of special assessments judgments, for each description, fifteen cents.

For issuing subpoena, drawing jury, swearing jury, copying indictments, taking recognizance, issuing order to show cause, bench warrants, or making and entering any order of court in any case in which the state of Minnesota or the county of Ramsey is a party, there shall be allowed the clerk, payable out of the county of Ramsey, the sum of seven hundred dollars per annum in full for all of said services. (*Sp. Laws 1887, c. 363, § 2.*)

CLERK'S FEES IN HENNEPIN COUNTY.

*§ 4b. Schedule of fees—Deposit.

The compensation of the clerk of the district court of said Hennepin county shall be as follows:

- For each entry of a discontinuance, nonsuit, or default, five cents.
- For each entry of every return on writ or order, five cents.
- For certified copies of orders, seven and one-half cents for each folio.
- For every report upon an assessment of damages, seven and one-half cents for each folio.
- For every certificate, ten cents.
- For calling and swearing jury, twenty-five cents.
- For administering oath and making entry thereof in minutes of court, ten cents.
- For making certificate thereof at request of party, ten cents.
- For entering every recognizance, twenty-five cents.
- For entering every cause on calendar for court, and making copy thereof for the bar, ten cents.
- For receiving and entering a verdict, fifteen cents.
- For entering every cause or suit in register, fifteen cents.
- For certified copies of the minutes of a trial, when requested, seven and one-half cents per folio.
- For entering every final judgment, twenty-five cents, and seven and one-half cents for each folio exceeding three.
- For indexing case in register, five cents.
- For copy of judgment to be attached to judgment roll, seven and one-half cents per folio.
- For entering satisfaction of judgment, five cents for each debtor.
- For drawing a special jury in cause, fifty cents.
- For writ or subpoena, when issued on request, under seal, twenty cents.
- For copies and exemplification of records and of pleadings, seven and one-half cents per folio.
- For searching the records or files in his office if a copy is not required, fifteen cents.
- For taking affidavits and acknowledgments, including certificate thereof, not otherwise provided for herein, twenty cents.
- For recording credentials of ordination of ministers and giving certificates of the same, fifty cents.

For filing and recording copy of certificate of marriage when license was issued from another county, twenty cents.

For entering a surrender of bail, ten cents.

For issuing a commission to take deposition, twenty-five cents.

For issuing a *venire facias*, forty cents.

For issuing a certificate of jurors' or witnesses' attendance at court, to be paid from county treasury, each, five cents.

For entering forfeiture of recognizance, ten cents.

For entering a declaration to become a citizen of the United States, and for making a copy thereof, twenty-five cents.

For entering the final admission of an alien to the rights of citizenship, and for making copy thereof, twenty-five cents.

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

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

For transcript of judgment, twenty-five cents.

For filing papers, five cents each.

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

For certified copy of such license and certificate, when requested, twenty-five cents.

For taxing costs, fifteen cents.

For attendance at court, or for the purpose of drawing juries, three dollars per day.

When more than one session of the court shall be held at the same time, requiring the attendance of the clerk by deputy at one or more of such sessions, such per diem shall also be allowed for such necessary deputy or deputies; and no civil action, proceeding, or appeal shall be entered in the clerk's office of the said district court until the plaintiff, relator, or appellant desiring such entry shall deposit with said clerk the sum of one dollar as security for the clerk's fees in such action, proceeding, or appeal, and out of which said clerk shall satisfy the fees due from such party as they accrue; and whenever said sum is exhausted, but not before, the said clerk shall require, as a condition of further entries for said party, an additional deposit of one dollar for the purpose and application aforesaid, and the same amount in the same condition, for the same purpose and application, whenever such exhaustion occurs; and any balance remaining after the termination of the action, proceeding, or appeal shall be returned to the party depositing the same, or to his attorney in the proceeding. This provision shall not apply in cases where the city of Minneapolis or the county of Hennepin are interested, or the state of Minnesota, or to cases when applications are made for judgment for taxes or assessments; and the per diem compensation mentioned herein shall be in full of all compensation, fees, or allowances in suits or proceedings, when either said county, or any city or town thereof, or the state, is interested; but in all such cases, and in cases of special assessments and tax judgments, the fees shall be charged and taxed as now provided by law, and shall be collected and paid into the treasury of the town, city, or county entitled thereto. (*Sp. Laws* 1881, c. 408.)

CLERK'S FEES IN DAKOTA COUNTY.

*§ 4c. Schedule.

The clerk of the district court shall be allowed to charge the same fees as now provided by law, except that such officer shall charge for issuing subpoenas the sum of thirty cents, and no more, and in any criminal case such

clerk shall not be allowed to charge for more than two subpoenas; for certificate of jurors' and witness' attendance upon court, the sum of ten cents, and no more; for entering the final admission of an alien, (including all oaths required by law to be administered,) fifty cents, and no more; and for entering a declaration to become a citizen of the United States, (including all oaths required by law to be administered,) the sum of fifty cents, and no more; and the said clerk is further prohibited from making any charge to said county for stationery, or for postage, or for express in the transmission of papers to and from his office. (*Sp. Laws 1887, c. 394, § 6.**)

FEES OF WITNESSES.

§ 8. (Sec. 7.) In courts of record and justices' courts— Mileage—Experts.

An attorney in a cause is not entitled to a fee for attending as a witness. *Barry v. McGrade*, 14 Minn. 286, (Gil. 214.) A defendant is entitled to fees as a witness only when he attended solely as a witness for his co-defendants. *Id.*

Witnesses for the state in a criminal case are entitled to fees for their attendance and mileage, and they may be taxed in the costs. *State v. Bliss*, 21 Minn. 459.

Where witnesses attend and are sworn, though not subpoenaed, their fees may be taxed. *Clague v. Hodgson*, 16 Minn. 329, (Gil. 291.)

The matter of making such allowance to experts being left to the discretion of the trial judge, this court will not reverse an order refusing such allowance, unless, perhaps, where there has been a palpably gross abuse of such discretion. *Le Mere v. McHale*, 30 Minn. 410, 15 N. W. Rep. 682. This statute was designed to apply to cases where witnesses are called to testify to an opinion founded on special study or experience in any profession or calling, or to make scientific or professional examination of some matter connected with the issues in the case, and then state the results, and not to cases where a witness is called upon to testify as to facts connected with the case, which have come to his personal knowledge while engaged in the ordinary practice of his profession, although his professional skill may have enabled him to observe such facts more intelligently. *Id.*

The provision as to expert witnesses has reference to an allowance to be made after the witness has been summoned, and dismissed without being sworn or examined, or after he has been sworn and examined, and not before. *State v. Tiepner*, 36 Minn. 535, 32 N. W. Rep. 678.

The affidavit of the travel of a witness should state the place of his residence, and the number of miles he traveled as such witness in going from such place of residence to the place of trial, and returning therefrom. *Merriman v. Bowen*, 35 Minn. 297, 28 N. W. Rep. 921.

§ 9. (Sec. 8.) Fees to be paid in advance.

To entitle a party to an attachment against a witness, he must have duly subpoenaed him. It is not enough that the opposite party had subpoenaed him, and examined him in a previous stage of the trial. *Beaulieu v. Parsons*, 2 Minn. 37, (Gil. 26.)

See *Clague v. Hodgson*, 16 Minn. 329, (Gil. 291, 296.)

§ 10. (Sec. 9.) Witness fees in criminal cases.

Witnesses for the state, in criminal cases or proceedings before any court of record or justice's court, shall receive for such attendance one dollar for each day, and six cents per mile in going to and returning from the place of attendance. The judges of the district court may, in their discretion, allow like fees to witnesses attending in behalf of any defendant in criminal cases or proceedings pending in the district court. In courts of record said witness fees shall be certified and paid in the same manner as jurors in said court are paid, and in justice courts said fees shall be a county charge, and be allowed and paid by the county in which such services are rendered, in the same manner as other county charges. (*As amended 1870, c. 77, § 1; 1881, c. 74, § 1.*)

See *Wilcox v. County of Sibley*, 34 Minn. 214, 25 N. W. Rep. 351.

*By § 9, "all acts and parts of acts inconsistent with this act are hereby repealed, so far as they apply to the county of Dakota, and no general law passed in the future shall be construed to apply to said county, when its provisions are in conflict with this act, unless such application is specifically mentioned."

SHERIFFS.

§ 11. (Sec. 10.) Schedule of fees, etc.

Fees per diem are not allowed by this section to a sheriff for services in searching for supposed criminals, with view to their arrest. *Thomas v. Commissioners Scott Co.*, 15 Minn. 324, (Gil. 254.)

The per diem of the sheriff covers such services as bringing into court and removing prisoners, for arraignment, trial, and sentence. *Connelly v. Board of Commissioners*, 35 Minn. 365, 29 N. W. Rep. 1. The sum allowed for boarding prisoners covers washing. *Id.*

A sheriff or constable is entitled to mileage for traveling to serve a criminal warrant, although he fails to serve it, he being free from fault. *Davis v. Board of County Commissioners*, 35 N. W. Rep. 364.

See *Barnum v. Miller*, 23 Minn. 458; *Coykendall v. Way*, 29 Minn. 162, 163, 12 N. W. Rep. 452.

For selling mortgaged personal property upon a decree of foreclosure, the statute allows the sheriff of Hennepin county a compensation of three dollars only. *Thompson v. First Division St. Paul & Pac. R. Co.*, 26 Minn. 353, 4 N. W. Rep. 603.

SHERIFFS OF RAMSEY, HENNEPIN, AND DAKOTA COUNTIES.

*§ 12. Fees.

The provision of Sp. Laws 1876, c. 207, § 3, allowing the sheriff of Ramsey county a fee of one dollar for committing a prisoner to jail, applies to persons committed to the county jail by the municipal court of St. Paul, upon conviction of a violation of city ordinances. *Richter v. City of St. Paul*, 29 Minn. 198, 12 N. W. Rep. 532.

*§ 12a. Ramsey county—Schedule of fees.

The fees and compensation of the sheriff of the county of Ramsey shall be as follows:

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

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

Taking and approving a bond, fifty cents.

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

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

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

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

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

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

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

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

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

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

Summoning a special jury, struck pursuant to an order of the court, and returning the panel, fifty cents for each juror, and mileage actually and necessarily traveled.

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

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

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

Boarding prisoners, three dollars twenty-five cents per week, including washing.

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

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

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

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

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

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

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

The county commissioners of said county, shall allow the sheriff of said county the sum of seven hundred and twenty dollars each per annum as compensation for one night watchman and two turnkeys of the jail, but all bailiffs, deputy-sheriffs attending upon court shall be furnished by such sheriff.

The food furnished persons shall be of good, substantial quantity, and of the variety needed for health, and as shall be regulated by the county commissioners. (*Sp. Laws 1887, c. 363, § 7.*)

***§ 12b. Hennepin county—Fees in mortgage foreclosures, etc.**

The sheriff of the county of Hennepin shall receive the fees now provided by law, except that his full compensation for services in the matter of foreclosure of mortgage by advertisement shall be three dollars, and such fee and mileage for service of notices therein as are now allowed by law for service of summons; and that for selling lands on execution or decree, advertising sale, and posting notices of sale, and for all services required in making such sale, execut-

ing certificate, advertising sale, and posting notices, shall be ten dollars; and that said sheriff shall receive for the boarding of prisoners in the county jail, and for doing the washing of such prisoners, whether committed from the county of Hennepin for the violation of the general laws, or for the violation of the municipal ordinances of the city of Minneapolis or of any town or village in said county, the sum of three dollars per week, and no more, for each prisoner; and when no provision has been made by special law for any services which said sheriff may be required to perform he may receive therefor such compensation as is allowed therefor by general law. (*Sp. Laws* 1881, c. 110.)

***§ 12c. Same—Fees for board, etc., of prisoners.**

The sheriff of Hennepin county shall be allowed the sum of three dollars and twenty-five cents per week for board of prisoners, which sum shall be full compensation for washing for such prisoners during the time said sheriff boards them, and no further compensation shall be paid said sheriff directly or indirectly for such board and washing for such prisoners as he may be required by law to receive into the jail of said Hennepin county. (*Sp. Laws* 1883, c. 295, § 6.)

***§ 12d. Dakota county—Sheriff's fees.**

The sheriff of the said county of Dakota shall be entitled to charge the same fees and compensation as now allowed by law, except that the said sheriff shall charge for boarding prisoners three dollars per week, and no more; and the term "boarding prisoners" shall include the washing for such prisoners also. Such officer shall not, however, charge more than fifty cents for each grand or petit juror summoned, and mileage at ten cents per mile for the number of miles necessarily traveled in summoning the panel; nor for committing a prisoner to jail, more than fifty cents; nor for receiving and paying over the money paid upon the redemption of property and executing a certificate therefor, more than one per cent. upon the first thousand dollars, and one-half per cent. on the excess: *provided, however*, that in no case shall the fees of such officer for such service be more than twenty dollars; and the said sheriff is also prohibited from making to said county any charge other than mileage, for his traveling expenses, or for moneys disbursed in the service of process. (*Sp. Laws* 1887, c. 394, § 8.*)

FEES OF CORONERS.

§ 13. (Sec. 11.) In general—Inquests—Allowance to physicians.

For all services rendered by coroners they shall receive the same fees allowed to sheriffs for like services; and for an inquest or examination of a dead body they shall receive five dollars per day for the time actually spent, and ten cents per mile to and from the place where such inquest or examination shall take place. There shall be allowed to physicians called by the coroner to make any professional *post mortem* examination six dollars per day, and ten cents per mile for actual distance traveled in going to and from the place of holding such inquest or examination: *provided*, that whenever it shall be made to appear satisfactorily to the board of county commissioners that such *post mortem* examination was attended by great and unusual difficulty, the said board of county commissioners may allow such further sum to the physicians who made such *post mortem* examination, as in the opinion of the board may be a just and fair compensation for the service rendered. (*As amended* 1873, c. 46, § 1; 1887, c. 89.)

* See note to § 4c, *ante*.

FEES OF CONSTABLES.

See *Davis v. County Commissioners*, 35 N. W. Rep. 364.

PROVISIONS IN RELATION TO FEES IN JUSTICES' COURTS.

§ 18. (Sec. 16.) Costs to prevailing party.

In an action before a justice, it is error to insert the defendant's costs in a judgment against him. *Payson v. Everett*, 12 Minn. 216, (Gil. 138.)

Payment of the costs and fee for making the return are essential conditions to the jurisdiction of a justice to allow an appeal. *Trigg v. Larson*, 10 Minn. 220, (Gil. 175.)

See *Clague v. Hodgson*, 16 Minn. 329, (Gil. 291, 296.)

FEES OF REGISTERS OF DEEDS.

See *Nordin v. County Com'rs*, 23 Minn. 171.

*§ 26a. Registers' fees in certain counties.

That in counties where registers of deeds do not receive compensation for their services to exceed the amount of eight hundred dollars per annum, they shall be entitled to charge and receive fees as follows:

For entering or recording any deed or other instrument, twelve and one-half cents per folio, to be paid when the same is left for record.

Every certificate, twenty-five cents.

For copies of any record or papers, when required, ten cents per folio.

For recording any deed in any other than English language, twenty cents per folio.

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

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

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

Searching record, ten cents.

For an abstract of title, twenty-five cents for every transfer, and fifty cents for his certificate. (1881, c. 120, § 2.)

FEES OF REGISTER IN RAMSEY COUNTY.

*§ 27a. Schedule of fees.

The fees and compensation of the register of deeds of Ramsey county shall be as follows:

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

For every certificate, ten cents.

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

For recording any deed or any other paper in any other than the English language, fifteen cents per folio.

For entering the discharge of mortgage in the margin of the record, ten cents.

For filing every instrument and making an entry thereof, when necessary, five cents.

And in consideration of the fees aforesaid, it is hereby made the duty of the county register of deeds of said county to furnish free of charge, according to the records in his office, to the county auditor, a list of all mortgages or other real-estate securities held, owned, or controlled by the residents of said county, showing the names of the owners or agents alphabetically arranged, and the

amounts due on each separate instrument. Such list shall be made out and delivered, duly certified, to the county auditor, within and at the time prescribed and required by the general laws of the state in relation to taxes. (*Sp. Laws 1887, c. 363, § 5.*)

REGISTER'S FEES IN HENNEPIN COUNTY.

***§ 27b. Schedule of fees.**

The compensation of the register of deeds for the county of Hennepin, in this state, shall be as follows:

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

For every certificate, ten cents.

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

For recording any deed or any other paper in any other than the English language, fifteen cents per folio.

For entering the discharge of mortgages in the margin of the record, ten cents.

For filing every instrument, and making an entry thereof, when necessary, five cents. (*Sp. Laws 1881, c. 408, § 1.*)

REGISTER'S FEES IN DAKOTA COUNTY.

***§ 27c. Fees.**

The fees of the register of deeds of the said county shall be the same as now provided by law, except that the said officer shall charge, for entering or recording any deed or other instrument, seven and one-half cents for each folio, to be paid when the same is left for record, and no more. It shall, however, be the duty of the said register of deeds to record, without charge, to the said county of Dakota, or to any of the county officers of said county, the official bonds of such county officers; and it shall also be the duty of such register of deeds to prepare and furnish the list of mortgages and real-estate securities as provided by section twenty-nine of chapter eleven of the General Statutes of one thousand eight hundred and seventy-eight, without making any charge therefor to the said county; and the said officer is further required to furnish his own stationery and postage at his own expense. (*Sp. Laws 1887, c. 394, § 7.**)

FEES OF JURORS.

See *Wilcox v. County of Sibley*, 34 Minn. 214, 25 N. W. Rep. 351.

GENERAL PROVISIONS.

§ 33. (Sec. 29.) Posting table of fees.

This section applies only to those in office at the time of its passage, or coming into office within six months thereafter. *Kennedy v. Raught*, 6 Minn. 235, (Gil. 155.)

§ 34. (Sec. 30.) Taking illegal fees forbidden.

A public officer cannot receive, for performing an official duty, any other compensation or reward than is prescribed by law. *Warner v. Grace*, 14 Minn. 487, (Gil. 364.)

Upon information to a deputy-sheriff that a person within his county has committed a felony in another county, which felony has in fact been committed, it is his duty as a peace-officer, if he has reasonable cause to believe and does believe the information to be true, to arrest such person, though he have no warrant, and for making such arrest

*See note to § 4c. *ante.*

he is entitled to the same fees as though made on a warrant, but is not entitled to any reward offered for the arrest of such person. *Id.*

§ 40. (Sec. 36.) Attorney not entitled to witness fees.

See *Barry v. McGrade*, 14 Minn. 236, (Gil. 214;); *Thomas v. County Com'rs*, 15 Minn. 324, (Gil. 254.)

§ 42. (Sec. 38.) Performance of same duties by other officers—Fees.

See *Davis v. Board of County Com'rs*, 35 N. W. Rep. 365.

§ 45. (Sec. 41.) Witnesses to attend without prepayment of fees.

See *State v. Bliss*, 21 Minn. 458, 460.

CHAPTER 71.

PETIT JURORS.*

§ 2. Number of jurors drawn for each general term.

A number of petit jurors, not less than twenty-four, shall be drawn for each general term of the district court, and no greater number shall be drawn unless the court otherwise orders; but in no case shall more than thirty-six petit jurors be drawn, and the judge of said court may, in his discretion, by an order filed with the clerk, direct that no petit juror be drawn or summoned for such term. (*As amended* 1883, c. 26.)

§ 4. How drawn and summoned.

The petit jurors shall be drawn and summoned at the same time and in the same manner as is by law prescribed for the drawing and summoning of grand jurors: *provided*, that in the county of Hennepin the petit jurors shall be summoned to appear at nine o'clock A. M. on the second Tuesday of each general term of the district court for said county, unless said court, by an order made at least fifteen days before the term, shall direct that the petit jurors be summoned to appear at an earlier day in the term: *provided, further*, that at any time before the issuing of the *venire* the judge of the district court may, by his order in writing, filed with the clerk, fix a time in the term other than the first day thereof for the appearance of the petit jurors; in which case the *venire* shall command the sheriff to summon the persons so drawn as jurors as aforesaid to appear before the court at the time so fixed by the judge to serve as petit jurors. (*As amended* 1881, c. 45, § 1; 1883, c. 62, § 1.)

[See *post*, as to Hennepin county.]

See *State v. Stokely*, 16 Minn. 282, (Gil. 249, 255;); *Mark v. St. Paul, M. & M. Ry. Co.*, 32 Minn. 203, 20 N. W. Rep. 131.

See section 15 and note, *post*.

§§ 12, 13, 14. Talesmen.

See *State v. Stokely*, 16 Minn. 282, (Gil. 249, 255.)

* For proceedings upon the failure of a juror to report at the term for which he is summoned, and for grounds of excuse from service, see *post*, c. 107, *§ 9a *et seq.*