

GENERAL STATUTES

33

OF THE

STATE OF MINNESOTA,

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VOL. 1.

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SEC. 2135. **Appointment — Fee.**— The governor is authorized to appoint and commission as notaries public, by and with the advice and consent of the senate, as many persons, having the qualifications of electors,* or any other citizen of this state, over twenty-one years of age, that the governor may deem suitable,* and resident in the several counties of this state, as he deems necessary: *providing*, that no greater fee than three (3) dollars shall be charged or received for each commission, and that such fees shall be paid to the governor's private secretary.

G. S. ch. 26, § 1, as amended 1887, ch. 30; 1887, ch. 85. The first amendment inserted the proviso and the second the matter between * *.

SEC. 2136. **Term — Oath — Bond.**— Each notary public, so appointed and commissioned, shall hold his office for the term of seven years, unless sooner removed by the governor or the district court; and, before entering upon the duties of his office, he shall give a bond to the state of Minnesota, in the sum of two thousand dollars, with sureties to be approved by the governor, conditioned for the faithful discharge of the duties of his office, and he shall take and subscribe the oath required by law, and the same with his bond shall be deposited in the office of the secretary of state.

G. S. ch. 26, § 2, as amended 1885, ch. 48. Approved March 9th. Amendment struck out two and inserted seven, and provided that "this act shall not apply to notary public commissions already issued."

SEC. 2137. **Seal — Deposit of register.**— Each notary public, before entering upon the duties of his office, shall provide himself with the proper official seal, with which he shall authenticate his official acts, upon which shall be engraved the arms of his state, the words "notarial seal," and the name of the county in which he resides, which seal, together with his official register, shall be exempt from execution; and on the death or removal from office of such notary public, his register shall be deposited in the office of the clerk of the district court of the county in which such notary resides.

G. S. ch. 20, § 3. 28 M. 119; 38 N. W. 802.

SEC. 2138. **Record — Commission.**— Any notary public appointed under the provisions of this act shall have his commission recorded by the clerk of the district court of the county in which he resides, and for which he was appointed, or of the county to which such county is attached for judicial purposes, in a book provided by the several clerks for that purpose, on payment to the clerk of one dollar for recording the same; and the clerk shall, upon having recorded such commission, and when thereunto requested, certify to the official acts of such notary public, whose commission is so recorded, in the same manner, and for the same fees allowed by law, for similar certificates to authenticate acts of justices of the peace.

G. S. ch. 26, § 5.

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SEC. 2139. **Powers.**— Each notary public so appointed, commissioned and qualified, shall have power throughout this state, while residing within the county for which he is appointed, to administer all oaths required or authorized by law to be administered in this state, to take and certify depositions to be used in any of the courts of this state, to take and certify to all acknowledgments of deeds, mortgages, liens, powers of attorney, and other instruments in writing, and to receive, make out and record notarial protests.

G. S. ch. 26, § 4. 18 M. 90.

SEC. 2140. **Depositions.**— In taking depositions, he shall have the same power to compel the attendance of witnesses, and punish witnesses for refusing to testify, which may be vested by law in justices of the peace; and all sheriffs and constables, and sheriffs in this state, are hereby required to serve and return all process issued by such notaries in taking depositions.

G. S. ch. 26, § 10 (9).

SEC. 2141. **Protests.**— Every notary public, when any bill of exchange or promissory note is by him protested for non-acceptance or non-payment, shall give notice thereof in writing to each party protested against, immediately after such protest is made; and such notice may in all cases be given by depositing the same in the post-office, postage paid, and directed to the party protested against, at his reputed place of residence; and the notary shall, in such instrument of protest, certify to the time and manner of service of such notice upon the several parties protested against, and shall make a record of such instrument of protest in his official register, which record, or a duly certified copy thereof, shall be *prima facie* evidence of the facts therein contained.

G. S. ch. 26, § 8 (7), as amended 1868, ch. 44. Amendment inserted the proviso that notice may be mailed. Acts 1871, ch. 54, approved March 4th, repealed section 7 of this chapter, which provided that if a banker, broker, officer, stockholder, attorney, clerk or agent of any bank, broker or banker is appointed notary he cannot act where such official acts directly or indirectly appertain to or affect the business of such bank, broker or banker. See § 2146, *post*. 10 M. 68.

SEC. 2142. **Evidence of protest.**— The instrument of protest of any notary public appointed and qualified under the laws of this state, or the laws of any other state or territory of the United States, accompanying any bill of exchange or promissory note which has been protested by such notary for non-acceptance or for non-payment, shall be received in all the courts of the state as *prima facie* evidence of the facts therein certified; but any party may contradict, by other evidence, any such certificate.

G. S. ch. 26, § 9 (8). 31 M. 332.

SEC. 2143. **Misconduct.**— Any notary public exercising the duties of his office after the expiration of his commission or term of office, or when otherwise disqualified, or appending his official signature to acknowledgments or other documents when the parties executing the same have not appeared before him, is guilty of a misdemeanor, and shall be fined not to exceed one hundred dollars for each offence, to be recovered before any justice of the peace of the county, upon complaint, under oath, of any person; and, upon conviction thereof, his term of office shall cease.

G. S. ch. 26, § 6.

SEC. 2144. **Removal from office.**— Any notary public who charges or receives any fee or reward for any act or service done or rendered by him under this chapter, greater than the amount limited by law, or who dishonestly or unfaithfully discharges his duties as notary public, shall, on complaint filed and substantiated in like manner as other cases in the district court of the county in which he resides, be removed from his said office by such court; and the court shall thereupon certify the fact of such removal to the governor,

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and the party so removed shall be thereafter ineligible to a re-appointment to the office of notary public in this state.

G. S. ch. 26, § 11 (10), as amended 1867, ch. 97. Amendment changed "amount herein limited" to "amount limited by law."

SEC. 2145. **Absence of seal will not invalidate.**— That no official act of any notary public heretofore done, shall be held, deemed, or taken to be invalid because, or on the ground that such notary failed, or neglected to affix to such act or to any certificate, or to any verification or attestation of such acts his official seal. But all the official acts of such notary public shall, notwithstanding the absence of such official seal, be held as valid to all intents and purposes as if such were or had been properly affixed thereto, *provided*, that the provisions of this act shall not apply to actions now pending; and, *provided, further*, that this act shall not apply to powers of attorney executed more than five years prior to the passage of this act.

1881, Ex. S. ch. 55: "An act to validate and confirm the official acts of notaries public to which their official seals have not been affixed." Approved November 22, 1881.

SEC. 2146. **Same — Conveyances executed out of state.**— The record of all deeds of land, or of any interest therein, heretofore made and purporting to have been executed and acknowledged before a notary public outside of this state, wherein it appears by said record that the notary before whom said acknowledgment was taken has failed to attach his seal of office as required by section nine, chapter forty, of the statutes of Minnesota, is hereby legalized and made valid, and said record shall have the same force and effect as if it appeared by said record that the notary before whom the acknowledgment was taken had attached his seal of office to the certificate of acknowledgment.

1871, ch. 60: "An act to legalize the records of certain deeds." Approved March 1, 1871.

SEC. 2147. **Acknowledgments legalized.**— That all acknowledgments of deeds, bonds, mortgages, contracts, affidavits and agreements, heretofore taken by any banker or broker in this state, who has been appointed and commissioned by the governor as a notary public, be and the same are hereby legalized.

1863, ch. 45, § 1: "An act to legalize acknowledgments taken by bankers or brokers who have been appointed and commissioned by the governor as notary public." Approved March 2, 1863.