

GENERAL STATUTES

33

OF THE

STATE OF MINNESOTA,

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CHAPTER 42 (New).

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BOUNTY TO SOLDIERS.

Bounties to soldiers were given by counties, towns and cities without any general law for that purpose, and the legislation merely legalized such action. These acts are 1862, Ex. S. ch. 8; 1864, ch. 11; 1865, ch. 53; 1867, ch. 50; 1869, ch. 20. Acts 1865, ch. 3; 1869, ch. 19, provided for the relief and education of soldiers' orphans.

SEC. 3826. Orders and bonds for bounty legalized.— That the action of the county commissioners of any county, the city council of any city, or the supervisors of any town in this state, in appropriating money, issuing bonds, orders, scrip, or other evidence of indebtedness, to pay bounties to soldiers, or for the support of the families of soldiers, or which may hereafter be appropriated or issued by the authorities hereinbefore mentioned and pursuant to such action by them heretofore had, or in pursuance of a vote of the electors of any county, city or town, cast at any election heretofore held for that purpose, and any tax which has been levied, or may hereafter be levied, by any of the authorities specified in this act, for the payment of the principal and interest, or either, of any bonds, orders, scrip, or other evidence of indebtedness, issued for the purposes hereinbefore mentioned, be and the same is hereby legalized and made valid, and the levy and collection of a tax for the payment of the principal and interest thereof, shall be legal and binding on such county, city or town the same as if such action had been fully authorized by law, and such tax shall be collected in the same manner as other county, city or town taxes are now collected.

1865, ch. 53: "An act to legalize the action of county, city and town authorities in appropriating money, issuing bonds, orders, scrip, and other evidences of indebtedness, to pay bounties to soldiers and for the support of the families of soldiers." Approved February 11, 1865. See 12 M. 124; 13 M. 127. Acts 1862, Ex. S. ch. 3, legalized all bounties theretofore issued and empowered future issuance, and the levy of taxes to pay the same. Acts 1864, ch. 11, amended § 1 of this act by legalizing all prior and future bounties issued in pursuance of a vote of the electors of any county, city or town, and any tax for payment thereof.

SEC. 3827. Same — For 1863, 1864, 1865.— That in each and all cases where during the years 1863, 1864 and 1865, the county commissioners of any county, or the city council of any city, or the board of supervisors of any town in this state, have appropriated any money or issued any bonds, orders, scrip, or other evidences of indebtedness, to pay or to provide for the payment of bounties to soldiers, either drafted or as volunteers, to support the families of soldiers, or have for and on behalf of their respective counties, cities or towns assumed and undertaken to liquidate the indebtedness of persons incurred in procuring money by their joint notes or otherwise to pay bounties to such soldiers accredited to their respective counties or towns, or have allowed and audited any accounts or demands against their respective counties, cities or towns in favor of persons for money advanced to pay bounties to such soldiers accredited thereto, and to provide for raising the money so appropriated, or to provide for the payment of the bonds, orders, scrip, or other evidence of indebtedness, so issued, or to provide for the liquidation of the indebtedness of persons so assumed, or to provide for the payment of the accounts or demands

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so allowed and audited, or for any or all of such purposes a tax or taxes have been levied upon the taxable property in their respective counties, cities or towns, and of which tax or taxes at least three-fourths prior to the passage of this act have been paid, the proceedings of such commissioners, councils and supervisors respectively in relation to such appropriation of money, or to the issuing of such bonds, orders, scrip, or other evidence of indebtedness, or to the assuming and undertaking to liquidate such indebtedness of persons so incurred, or to the allowing and auditing of such accounts or demands or to any or all of the same, and all proceedings in relation to the assessment, levy and collection of such tax or taxes of which three-fourths have been so paid, be and the same hereby are legalized and valid to all intents and purposes as though the same had been authorized by law.

1867, ch. 50: "An act to legalize certain proceedings relating to the payment of bounties to soldiers and certain taxes therefor." Approved March 9, 1867.

SEC. 3828. Same—Town divided.—That the action of the county commissioners of any county, the city council of any city, or the supervisors of any town, in this state, in appropriating money, issuing bonds, orders, scrip or other evidence of indebtedness, to pay bounties to soldiers or for the support of the families of soldiers, and pursuant to such action by them heretofore had, or in pursuance of a vote of the electors of any county, city or town, cast at any election heretofore held for that purpose, and any tax which has been levied by any of the authorities specified in this act for the payment of the principal and interest on either of any bonds, orders, scrip, or other evidences of indebtedness, issued for the purpose hereinbefore mentioned, be and the same is hereby legalized and made valid, and the levy and collection of a tax for the payment of the principal and interest thereof shall be legal and binding on such county, city or town the same as if such action had been fully authorized by law, and such tax shall be collected in the same manner as other county, city or town taxes are now collected: *provided*, that in all cases where towns affected by this act have been divided, the taxable property included in the territory forming the town at the time of levying the tax, or the issuing of said bonds, as provided for in this act, shall be subject to taxation for the purposes of paying said bonds or indebtedness the same as though it had remained a part of such town; and such tax shall be levied and collected the same as other taxes.

1869, ch. 20, § 1: "An act to legalize the action of county, city and town authorities in appropriating money, issuing bonds, orders, scrip and other evidences of indebtedness to pay bounties to soldiers and for the support of the families of soldiers." Approved March 6, 1869.

SEC. 3829. Issuance of new bonds.—That all town, village, city, and county authorities are hereby authorized and empowered to take up and cancel, by the issue of new bonds, any old matured and unpaid bonds which have been heretofore issued by such authorities for the purpose of raising the quota of volunteers in said town, village, city or county under the several calls of the president of the United States for the suppression of the late rebellion: *provided*, such new bonds shall not bear a greater interest than twelve per cent. per annum, and shall run for such period as may be agreed upon by said authorities and the holders of the bonds above referred to.

1868, ch. 51: "An act to authorize town, city and county authorities to cancel matured and unpaid bonds by the issuance of new bonds." Approved March 5, 1868.

SEC. 3830. Exemption from bounty tax.—It shall be the duty of the county commissioners of any county, or the city council of any city, and of the board of supervisors of any town, in the state of Minnesota, in which any tax has been levied for the purpose of paying bounties to volunteers, upon the property of any person who being a citizen of Minnesota on or before the first day of January, A. D. eighteen hundred and sixty-four entered the military service of the United States, and who has been honorably discharged or resigned, or still remains in said service, or against the property of the wife,

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widow or minor children of any such person: it shall be the duty of said authorities upon due proof of the facts above set forth, to issue and deliver to any such person, or their authorized agents, an order upon the treasurer of such county, city, or town — wherein such tax or taxes were levied, for the purpose of paying bounties to soldiers in such county, city or town — specifying in such order the amount of taxes, all charges and interest included, to whom issued and delivered, and that it is in behalf of a person, or the wife or widow or minor child, or children, of such person who had entered the military service of the United States on or before the first day of January, eighteen hundred and sixty-four, and the treasurer upon whom such order is drawn, or his successor, shall receive the same in payment for any taxes due, or that may become due.

1866, ch. 3, § 1, as amended 1867, ch. 49, § 1: "An act to relieve certain soldiers from paying bounty tax." Approved February 28, 1866.

SEC. 3831. Same — Refusal of authorities.— When the authorities of any county, city or town shall neglect or refuse to issue and deliver the said order in accordance with the previous section, such county, city or town shall be liable, in an action at law, to the party or parties aggrieved, in the sum of twice the amount of his or their taxes, charges, penalties and interest so levied, imposed or charged,* with interest at the rate of seven (7) per cent. per annum from the time of payment; and such action may be instituted against such county, city or town within six (6) years from the approval of this act.

1866, ch. 3, § 2, as amended 1887, ch. 65. Amendment below *.

SEC. 3832. Same — To whom law applies.— The benefits of this act shall apply only to persons, citizens of Minnesota at the time of their entry into the military service of the United States, and who shall have served at least one year, (unless sooner discharged by reason of wounds or disease or physical inability contracted while in the line of their duty as soldiers) previous to the first day of January, A. D. eighteen hundred and sixty-five, as officers or privates in any organization of United States troops, or their wives, widows, or minor children, and shall not apply to any person whose total bounties received from all sources equal the sum of three hundred dollars; and the said authorities issuing said orders are hereby authorized to levy sufficient taxes in any succeeding year or years to meet all deficiencies, if any, created by the operations of this act.

1866, ch. 3, § 3, as amended 1867, ch. 49, § 2.

SEC. 3833. Exemption from poll tax and juries.— That all discharged soldiers who served as volunteers in the war of eighteen hundred and sixty-one, citizens of and residing in the state of Minnesota, who were honorably discharged from such service, on account of wounds received while on duty in said service, having lost a limb, or being otherwise permanently disabled, shall be exempt from poll tax, and from sitting as jurors in any of the courts of this state.

1868, ch. 85: "An act to exempt disabled soldiers from poll tax and sitting as jurors." Approved February 15th.

BOUNTY FOR TREE PLANTING.

Acts 1867, ch. 32, to encourage the cultivation of timber and hedge fence and to appropriate money therefor, is obsolete. Acts 1867, ch. 33, to protect fruit and ornamental trees, vines, and vegetable productions, and acts 1867, ch. 34, to protect the growing of hedges, are superseded by law in Criminal Code. Acts 1879, ch. 96, authorized applications for bounty any time before July 31, 1879. Acts 1883, ch. 110, appropriated \$5,000 out of forestry fund for 1883 and 1884 to promote tree planting, and printing and distributing new edition of "Forest Tree Planters' Manual." Acts 1889, ch. 54, appropriated \$2,000 out of same fund for same purposes for years 1889 and 1890.

SEC. 3834. Who entitled.— That any person who has heretofore or shall hereafter plant, cultivate and keep in a growing, thrifty condition one acre

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and not more than ten acres of prairie land with any kind of forest trees, except black locust, and shall plant, or have planted, said trees not more than eight feet apart each way, and maintain them at that distance by replanting each year any that may die, shall be entitled to compensation at the rate of two dollars and fifty cents per acre for a period of six years. Provided, that this act shall not apply to any railroad company planting trees within two hundred feet of its track, nor to any person planting trees in compliance with an act of congress entitled: "An act to encourage the growth of timber on western prairies," approved March three, eighteen hundred and seventy-three, or any act amendatory thereto; provided, further, that this act shall not apply to any person who has received bounty under said section seventy."

1881, ch. 151, § 1: "An act to encourage timber culture and to provide a compensation therefor," approved March 5th, as amended 1883, ch. 44; 1885, ch. 54; 1889, ch. 78. Supersedes § 1, ch. 19, acts 1873. Section 70 referred to in this section means § 1, ch. 151, acts 1881, before amendments.

SEC. 3835. How obtained.— Any person wishing to secure the benefits of this act shall file with the county auditor of the county in which the land is located a correct plat of such grove or line of trees, and designate the same by metes and bounds, giving the subdivision on which the same is located, according to government survey, and if such grove or line of trees is extended, supplemental plats of such extension made out in like manner, shall be filed from time to time, as such extension is made; such applicant for compensation shall also make proof of the ownership of the land, and of the planting and maintaining of the requisite number of trees, and at the proper distance as above specified, and of the cultivation and maintenance, in a thrifty growing condition of the same, as within provided, to be verified by the claimant and supported by the affidavit of at least two freeholders, residents of the same town, who have personal knowledge of the facts, which proof is to be filed with the county auditor of the county, between the first and fifteenth day of July of the year for which compensation is claimed. Such proof shall be made in such form and on such blanks as shall be prescribed by the Minnesota Forestry Association, in conformity with the spirit of this act.

1881, ch. 151, § 2. Supersedes § 2, ch. 19, acts 1873, which also provided that auditors report annually, and that the act not to apply to railroad planting trees within two hundred feet of its track for the purpose of snow fence.

SEC. 3836. Duty of assessor.— It is hereby made the duty of the assessor of every town, at the time of making his assessment, to ascertain whether or not trees have been planted by any land owner in his town, and for which compensation is claimed under this act, and in case trees have been planted, and such compensation is claimed, the assessor shall personally examine the grove or line of trees, and make report of the extent and condition thereof, according to the prescribed form, the same to be returned to the county auditor with the other returns and assessment book.

1881, ch. 151, § 3.

SEC. 3837. Duty of county auditor.— The county auditor shall thereupon, and before the first day of August each year, compare the proof furnished by the owner of the grove or line of trees with the assessor's report thereof, and if the same correspond in substance he shall immediately forward to the state auditor a certified list of all plats filed, and proofs of planting, cultivation and maintenance found correct as aforesaid.

1881, ch. 151, § 4.

SEC. 3838. Duty of state auditor.— If the state auditor finds that the provisions of this act have been complied with, he shall issue to the several claimants entitled to compensation his warrant upon the state treasurer for the amount to which such claimant is entitled under this act, on the first Monday in October each year. *Provided*, that if the aggregate of the compensation

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so applied for shall in any one year exceed the amount of money in the hands of the state treasurer belonging to the state forestry fund, then it shall be the duty of the state auditor to ascertain the amount of money in said fund, and on the first Monday of October in such year equitably distribute such sum among the claimants, and to issue no warrant to any claimant for a larger sum than his pro rata share under said distribution, and his warrant for such pro rata shall relieve the state and said fund from further claim for such year.

1881, ch. 151, § 5. Supersedes § 3, ch. 19, acts 1873.

SEC. 3839. Forestry fund — Tax for.— For the purpose of paying the compensation provided for in this act a general tax of one-tenth (1-10) of one mill on the assessment of all the real and personal property in the state shall be annually levied by the state auditor, in the same manner as state taxes. The moneys collected from such tax shall be designated the state "Forestry Fund," shall be separately kept and accounted for, and shall be collected in the same manner and by the same persons as are other state taxes, and paid into the state treasury. The state treasurer shall place all moneys collected from said tax to the credit of said fund, and no payments shall be made therefrom except for the redemption of the state auditor's warrants, issued as hereinbefore provided, and as provided in the following section. *Provided*, that no more than twenty thousand dollars shall be expended for said purpose in any one (1) year.

1881, ch. 151, § 6.

BOUNTY FOR HORSE THIEVES.

SEC. 3840. Who entitled.— That the sum of two hundred dollars be paid to any person or persons for the arrest and conviction of each and every person that steals a horse or horses from any person or persons in this state, which amount shall be paid to the person or persons entitled thereto, on the presentation of a certificate, issued as hereinafter provided, from the clerk of the court of the county where such conviction was had, setting forth the object for which the same was issued, to the treasurer of the proper county; and such county treasurer shall take a receipt for the same, setting forth the object for which it was paid; which certificate and receipt shall be forwarded to the state auditor, who shall, at the next settlement, place a warrant for such amount into the hands of the state treasurer, to be credited on the settlement with said county treasurer.

1875, ch. 90, § 1, as amended 1877, ch. 63, § 1.

SEC. 3841. How obtained.— Any person or persons claiming such bounty shall, within twenty days after the conviction of criminal, apply to the judge of the district court of the county wherein such conviction was had, for an order on the clerk for such certificate. The judge of said court shall thereupon, after the expiration of the said twenty days, appoint a time and place for the purpose of taking and hearing evidence of the person or persons claiming such bounty, establishing their right thereto, who shall be notified by the clerk of said court of the time and place for hearing of the same; and if, after hearing such evidence, it shall appear to the satisfaction of said judge that any person or persons applying therefor are entitled to such bounty, he shall apportion the same among the claimants, if more than one, and make an order directing the clerk to issue a certificate or certificates therefor.

1875, ch. 90, § 2, as amended 1877, ch. 63, § 2.

SEC. 3842. Costs and expenses.— Each and every person applying for such bounty shall pay all costs and expenses made by him or them, and shall have no right to such bounty without they apply for the same within the time mentioned in this act.

1875, ch. 90, § 3, as amended 1877, ch. 63, § 3.

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SALE OF NURSERY STOCK.

This law may impinge United States Constitution, art. 4, § 2. Slaughter-house Cases, 16 Wall. 36; *McCready v. Virginia*, 94 U. S. 391.

SEC. 3843. Application to sell.—It shall be unlawful for any person, corporation or association, to sell or offer for sale any tree, plant, shrub or vine not grown in the state of Minnesota without first filing with the secretary of state an affidavit setting forth his name, age, occupation and residence, and if an agent, the name, occupation and residence of his principal, and a statement as to where the nursery stock aforesaid to be sold is grown, together with a bond to the state of Minnesota in the penal sum of two thousand dollars conditioned to save harmless any citizen of this state who shall be defrauded by any false or fraudulent representations as to the place where such stock sold by such person, corporation or association was grown or as to its hardiness for climate, *provided* that the bond aforesaid shall when the principal is a resident of this state be given by such principal and not by the agent.

1887, ch. 196, § 1: "An act to prevent the practice of fraud by tree planters and commission men in the sale of nursery stock." Approved March 8, 1887.

SEC. 3844. Permit to sell.—The secretary of state shall on the full compliance with the foregoing provisions give to the applicant aforesaid a certificate under his official seal setting forth in detail the facts showing a full compliance by said applicant with the provisions of this act, and said applicant shall exhibit the same or a certified copy thereof to any person to whom stock is offered for sale.

1887, ch. 196, § 2.

SEC. 3845. Guarantee to purchaser.—Any person whether in the capacity of principal or agent, who shall sell or offer for sale any foreign grown nursery stock within this state shall furnish to the purchaser of such stock a duplicate order, with a contract specifying that such stock is true to name and as represented.

1887, ch. 196, § 3.

SEC. 3846. Penalties.—Any person whether in the capacity of principal or agent, who shall sell or offer for sale any foreign grown nursery stock within this state without complying with the requirements of this act, or shall refuse to exhibit the certificate mentioned in section two of this act, whenever demanded, or shall by means of any advertisement, circular, notice or statement, printed or written, published or posted, or circulated by the agency of any officer, agent or other person, or by any other means shall falsely represent to any person or to the public that said nursery stock is grown in the state, and is hardy and is adapted to this climate, shall be deemed guilty of a misdemeanor and upon conviction thereof by any court of competent jurisdiction, shall be punished by fine of not less than twenty-five nor exceeding one hundred dollars, or by imprisonment in the county jail for a term not less than ten nor more than sixty days, in the discretion of the court, and shall be liable to the party injured in a civil action for treble the amount of damages sustained, and such party in such civil action may sue in his own name on said bond for the amount of such damages.

1887, ch. 196, § 4.

SALE OF PATENT-RIGHTS.

Acts 1871, ch. 26, § 1: "An act to regulate the sale of patent-rights and prevent frauds in connection therewith." Approved March 6, 1871.

This law was declared unconstitutional and void in *Crittenden v. White*, 23 M. 24, on the ground that congress has the exclusive power; hence when the patentee complies with the law of congress he has the right to sell his patent anywhere in the United States, and any state law attempting to regulate such sale is void. *Ex parte Robinson*, 2 Bissell, 309.