

THE
GENERAL STATUTES

OF THE
STATE OF MINNESOTA

As Amended by Subsequent Legislation, with which are Incorporated
All General Laws of the State in Force December 31, 1894

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[CHAPTER 130.]

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(1) LEGAL HOLIDAYS.

§ 7987. Legal holidays.

The twenty-second day of February, the anniversary of the birthday of Washington; the thirtieth day of May, known as memorial day; the first Monday in September, commonly known as labor day; and the Tuesday next after the first Monday in November in each and every even-numbered year, being general election day, shall be observed in this state as legal holidays hereafter. No public business except in case of necessity shall be transacted on any one of said days, and no civil process shall be served on any of said days.

(1860, c. 23, § 1; G. S. 1878, c. 124, § 1; as amended 1889, c. 96, § 1; 1891, c. 122, § 1; 1893, c. 89.)

A trial was commenced before, and proceeded with and closed on, Washington's birthday. Held, that it was for the trial court to determine at the time upon the necessity of continuing the trial on that day, and its action in that behalf was final. *State v. Sorenson*, 32 Minn. 113, 19 N. W. Rep. 738.

An acknowledgment taken on February 22d is valid. *Slater v. Schack*, 41 Minn. 269, 43 N. W. Rep. 7.

The service of summons by publication is valid, though one of the publications is made on May 30th. *Malmgren v. Phinney*, 50 Minn. 457, 52 N. W. Rep. 915.

(2) BONDS IN LIEU OF RECOGNIZANCES.

§ 7988. Bonds in lieu of recognizances — Counties excepted.

In all cases where by law a recognizance is required to be given, a bond, executed according to the form now required by the rules of court, with the conditions provided for in case of recognizance, shall be deemed and construed to be sufficient: provided, that such bond shall be entered into and the sureties examined by any court commissioner and approved by such court commissioner; and provided further, that this act shall not apply to the counties of Ramsey and Hennepin.

(1878, c. 58, § 1; G. S. 1878, c. 124, § 2.)

(3) UNDERTAKINGS ON APPEAL.

§ 7989. Undertakings in lieu of bonds—Exception.

That in all cases of appeal from the board of county commissioners to the district court upon the allowance or disallowance of any account of indebtedness, and in all actions brought before justices of the peace, and in all cases

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of an appeal from a justice court or a probate court to the district court, and in all actions commenced in the district court, and in all cases of appeal or writ of error to remove a cause or proceeding therein to the supreme court, and in all cases of special or equitable proceedings in either the district or supreme courts, the filing or service, or both, as may be required by law or the practice of the court, of an undertaking signed by a surety or sureties, as the law may require, containing a condition substantially the same as that required by law to be contained in the various bonds now required by law in such cases, with like sureties, qualifications and justifications, and without any acknowledgment and without the seal or signatures of the person or parties taking such proceeding, shall be deemed a sufficient compliance with the law to sustain any such action, appeal or proceeding; and every such undertaking shall be construed in any proceeding taken or had thereon, to save and secure all rights and liabilities to the same extent and in every particular as though a bond had been executed, acknowledged, filed and served in the manner now required by law; and the damages presumed to accrue to the party against which such proceeding is taken, shall be construed to be a sufficient consideration for such undertaking to support the same or any action thereon, though no consideration be mentioned therein: provided, that no undertaking or bond need be given or executed in any case before such appeal or other proceeding is instituted or taken in favor of the state of Minnesota, any county, town, city, school district therein, or any executor or administrator as such. (1863, c. 80, § 1; G. S. 1873, c. 124, § 3.)

Cited in *Schoregge v. Gordon*, 29 Minn. 369, 13 N. W. Rep. 194. *Hayden v. Keith*, 32 Minn. 278, 20 N. W. Rep. 195.

The word "bond" is used in this section as a general term, including recognizances as well as common bonds, and on appeal from the probate to the district court under G. S. 1873, c. 49, § 15, an undertaking may be filed in lieu of a recognizance. In *re Brown*, 85 Minn. 307, 29 N. W. Rep. 131.

(4) LEGAL ADVERTISEMENTS.

As to publication of probate notices in the counties of Brown, Ramsey and Winona, see §§ 4721, 4722.

§ 7990. In paper printed partly in English.

That all notices of sale and foreclosure of mortgages upon real property, of the sale of real estate under or by virtue of any execution, decree, judgment, or otherwise, and all other notices required by law to be published in a newspaper in this state, shall be published in a newspaper printed in the English language: provided, however, that in counties in which one or more newspapers are published in a foreign language, or partly in the English and partly in the foreign language, the publication of all such advertisements aforesaid, may (in the discretion of the party at whose instance they [are] published, or the party who is by law required to cause such publication to be made, and in a judicial proceeding with the approval and by order of the court before whom the publication is required to be proved), be made in the English language in a newspaper printed in a foreign language, or in a newspaper printed partly in the English and partly in a foreign language; and that all such newspapers so published shall be deemed a proper medium for the publication of all legal advertising.

(1878, c. 54, § 1; G. S. 1878, c. 124, § 4.)

As to notices and other publications required by the Probate Code in proceedings instituted in the probate court of Stearns county, see Sp. Laws 1889, c. 397; Sp. Laws 1891, c. 458.

As to notices and other publications required by the Probate Code in proceedings instituted in the probate court in Blue Earth county, see Sp. Laws 1891, c. 343.

See note to § 7993.

§ 7991. Same—Prior publications legalized.

All publications heretofore made in this state, required by law to be made in a newspaper, that were made in a newspaper printed and published in a foreign language, and otherwise made in conformity with the rules and requirements of law, shall be deemed valid and legal to all intents and purposes.

(1878, c. 54, § 2; G. S. 1878, c. 124, § 5.)

(2105)

§ 7992. What constitutes a daily newspaper.

That whenever any law provides for the publication of any official or legal notice in a daily newspaper, any newspaper, which is published six days in each week shall be held to be a daily newspaper, and shall be eligible for the publication of such notices. Provided, that said daily newspaper shall have been regularly published in this state as a daily newspaper for one year or more.

(1889, c. 47, § 1.1)

§ 2 repeals all inconsistent acts and parts of acts.

A newspaper printed and published six days consecutively each week, one of which is Sunday, is a "daily newspaper," within this section. *Tribune Pub. Co. v. City of Duluth*, 45 Minn. 27, 47 N. W. Rep. 309.

§ 7993. Definition of "newspaper."

A newspaper in order to entitle it to publish the laws of this state or any legal notices required by law to be published shall, in addition to all the requirements of the law now in force, conform to the following definition, viz.: A newspaper is a collection of reading matter in columns and sheet form, the matter consisting of general and local news, comments and miscellaneous literary items, printed daily, tri-weekly, semi-weekly or weekly, at an established office or known place of business, equipped with the necessary materials, excepting newspaper press, and skilled workmen for preparing and printing the same in whole or in part in the village, town or city at which it is dated, and generally circulated in the town, city or county where said office or place of business is located; provided that no publication shall be considered a newspaper of general circulation unless it shall have been printed in whole or in part and published in the county for one year and shall consist of four pages of five columns or more to each page, each column not less than seventeen and three-quarter inches long or its equivalent in space, and the proprietor or publisher thereof shall print, publish and deliver at each regular issue not less than 240 complete copies of such publication to paying subscribers. Provided further, that publications which are substantially duplicates, and publications which are made up wholly of patents, or plates and patents and advertisements, shall not be recognized as legitimate newspapers of general circulation.

(1893, c. 33, § 1.2)

A newspaper called the "Daily Short Line," printed and published in West Superior, Wis., and having, besides advertisements, two or three columns of paragraphs of a general nature, was established in 1891 as an advertising sheet for free distribution on the cars and boats around Duluth and West Superior, and among the business houses in each city. March 1, 1892, it was sold, and from March 21st it was printed and published regularly in Duluth with a free circulation of 500 copies, in form larger than required by the statute, and having eight or ten columns of "general and local news, comments, and miscellaneous literary items." September 29, 1892, the name was changed to "The Commonwealth." The free distribution was abandoned, and by April, 1893, it had the required number of subscribers. Held, that the "Short Line" had been a newspaper, and that its identity was not changed, and that "The Commonwealth" was therefore eligible as an official newspaper on April 24, 1893. *Norton v. City of Duluth*, 54 Minn. 281, 56 N. W. Rep. 80.

A deposit by the publishers, in the post office, of newspapers to be delivered to subscribers, some residing within the city and some at a distance, held a publication as to the papers so deposited. *Pratt v. Tinkcom*, 21 Minn. 142.

Designation of official newspaper. *Fairchild v. City of St. Paul*, 46 Minn. 540, 49 N. W. Rep. 325; *Russell v. Gilson*, 36 Minn. 366, 31 N. W. Rep. 692. See, also, note to § 1531.

See *Beecher v. Stephens*, 25 Minn. 146; *Hull v. King*, 38 Minn. 349, 37 N. W. Rep. 792.

§ 7994. Publisher's affidavit of circulation, etc.

The publisher of any newspaper in this state desiring to publish the laws or legal notices required by law to be published shall file with the county

¹An act to define the term "daily newspaper," so far as relates to the publication of official and legal notices. Approved April 24, 1889.

²An act defining what shall constitute a newspaper for publication of the laws of the state and legal notices. Approved April 17, 1893. By § 5, all acts or parts of acts, whether general or special, inconsistent with this act, are repealed.

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auditor of the county wherein said newspaper is published an affidavit in writing, or partly in writing and partly printed, subscribed by the affiant and sworn to before some officer authorized to administer oaths, stating the name of the town, county, city or village where said newspaper is printed and published and whether said newspaper is a daily, tri-weekly, semi-weekly or weekly newspaper, and the days of the week on which said newspaper is issued, and that the number of the regular paid subscribers of said newspaper exceeds two hundred and forty; and until the filing of such affidavit no money shall be paid the proprietor or publisher for the publication of the laws of this state or any official notice or any county, town, village or city, and no action shall be maintained by such proprietor or publisher for the collection of any fees for publishing any notice required by law to be published.

(1893, c. 33, § 2.)

§ 7995. What constitutes a legal newspaper.

Any newspaper conforming to the description given in section one and complying with the requirements of section two of this act shall be considered a legal newspaper in all the meanings of the term, and shall be entitled to publish all legal notices, general laws, foreclosures of mortgage sales, probate notices and any other legal or official notices of any kind whatsoever required by law to be published in a newspaper.

(Id. § 3.)

§ 7996. Same—When only one paper in county.

If in any county but one newspaper is published and such newspaper does not comply with this law as to length of time for publication and number of papers printed and published, said paper shall, nevertheless, be considered a legal newspaper upon complying with all the other requirements of this act.

(Id. § 4.)

(5) INNS AND HOTELS.

§ 7997. Hotel keepers, etc., to keep safe—Notices—Locks.

That hereafter every landlord or keeper of a public inn or hotel, or boarding house keeper, in this state, who shall constantly have in his inn or hotel an iron safe in good and suitable order for the safe custody of money, jewelry or other valuable articles belonging to his guests or customers, shall keep posted conspicuously at the office, also on the inside of every entrance door of every public sleeping, reading, bar, sitting and parlor room of such hotel, &c., notice to the guests and customers that they must leave their money, jewelry, and other valuables with the landlord, his agent or clerk, for safe keeping, and he or they may make safe deposits of the same in the place provided for that purpose. Every landlord or keeper of a public inn or hotel shall provide locks and bolts for all room doors.

(1874, c. 52, § 1; * G. S. 1878, c. 124, § 21.)

See § 7066.

§ 7998. Exemption from liability.

That such landlord, hotel, or inn keeper as shall comply with the requirements of the first section of this act, shall not be liable for any money, jewelry, or other valuables of gold, silver, or rare and precious stones, that may be lost, if the same is not delivered to said landlord, hotel, or inn keeper, his agent or clerk, for deposit, unless such loss shall occur by the hand, or through the negligence, of the landlord, or by a clerk or a servant employed by him in such hotel, inn, etc.

(1874, c. 52, § 2; G. S. 1878, c. 124, § 22; as amended 1883, c. 30, § 1.)

When goods of a guest are lost at an inn, to relieve the innkeeper from liability it must appear that they were lost from one of the causes for which he is not liable; as, for instance, the negligence of the guest. *Olson v. Crossman*, 31 Minn. 222, 17 N. W. Rep. 375.

It is not imputable as negligence in the guest that he consented to be placed to sleep

*An act concerning inn and hotel keepers and landlords, and for the protection of their guests. Approved March 5, 1874.

in a room with another guest, with whom he did not come to the inn, and who was a stranger to him, by whom his goods were stolen. Id.

Notice to the guest to deposit valuables with the landlord, where not such as the statute prescribes, does not relieve the landlord from liability, unless it be brought to the knowledge of the guest, so that his assent to limiting the liability of the landlord may be presumed. Id.

See *Chamberlain v. West*, 37 Minn. 54, 33 N. W. Rep. 114; *Becker v. Haynes*, 9 Fed. Rep. 441; *Burbank v. Chapin*, (Mass.) 2 N. E. Rep. 934.

§ 7999. Guests defrauding hotel keepers, etc.—Penalty.

Any person who shall put up at any hotel, inn or boarding house, and shall procure any food, entertainment or accommodation without paying therefor, except their credit is given by express agreement, with intent to cheat or defraud the owner or keeper of such hotel, etc. out of pay for the same, or if any person shall obtain credit at any hotel, inn, &c., for food, entertainment or accommodation by means of any false show of baggage or effects brought thereto, or who shall, with such intent, remove, or cause to be removed, any baggage or effects from any hotel, inn or boarding house while there is a lien existing thereon for the proper charges due from him for board and entertainment furnished as aforesaid, shall be punished by a fine not exceeding one hundred dollars, or imprisoned in a county jail not exceeding three months.

(1874, c. 52, § 3, as amended 1875, c. 111, § 1; G. S. 1878, c. 124, § 23.)

This section is not unconstitutional as an attempt to imprison for debt. *State v. Benson*, 23 Minn. 424, 10 N. W. Rep. 471.

A complaint for the third offense created by the section need not state the food or accommodation procured or the baggage removed to be of any value. Id.

§ 8000. Embezzlement by hotel keepers.

Every landlord or keeper of a public hotel or inn shall be liable for embezzlement for not promptly returning money and valuables deposited in his safe.

(1874, c. 52, § 4; G. S. 1878, c. 124, § 24.)

§ 8001. Goods taken for board bill may be sold.

All goods or property taken by any hotel, inn or boarding house keeper, and by him held for nonpayment of any bill for board, lodging or accommodation, may be sold after the expiration of ninety days and default being made in the payment of such bill, upon a notice of ten days, at public auction, upon notice as in cases of constable's sales.

(1874, c. 52, § 5; G. S. 1878, c. 124, § 25.)

§ 8002. Equal rights of citizens in inns and other places.

That all persons within the jurisdiction of the state of Minnesota shall be entitled to the full and equal enjoyment of the accommodations, advantages, facilities, and privileges of inns, public conveyances on land or water, theaters and places of public amusements, restaurants, and barber-shops, subject only to the conditions and limitations established by law, and applicable alike to all citizens of every race and color, regardless of any previous condition of servitude.

(1885, c. 224, § 1; G. S. 1878, v. 2, c. 124, § 203.)

§ 8003. Same—Denial—Penalty.

That any person who shall violate the foregoing section by denying to any citizen, except for reasons by law applicable to citizens of every race and color, and regardless of any previous condition of servitude, the full enjoyment of

⁵An act to protect all citizens in their civil and legal rights. Approved March 7, 1885. The preamble reads as follows: "Whereas, it is essential to just government that we recognize the equality of all men before the law, and hold that it is the duty of government in its dealings with the people to mete out equal and exact justice to all, of whatever nativity, race, color, or persuasion, religious or political, and it being the appropriate object of legislation to enact great fundamental principles of law: Therefore be it enacted," etc.

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any of the accommodations, advantages, facilities, or privileges in said section enumerated, or by aiding or inciting such denial, shall for every such offense be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined not less than one hundred nor more than five hundred dollars, or shall be imprisoned not less than thirty days nor more than one year.

(1885, c. 224, § 2; G. S. 1878, v. 2, c. 124, § 204.)

(6) HOTEL RUNNERS.

§ 8004. Hotel runners — Penalty for disorderly conduct.

Any licensed hotel, railroad, steamboat or restaurant runner in any city in this state who shall willfully annoy or obstruct any person or persons on the public streets of such city, or who shall conduct himself in a disorderly manner, shall be deemed guilty of a misdemeanor, and upon conviction shall be fined not less than five dollars nor more than fifty dollars, or shall be imprisoned in the county jail for a term not less than five days nor more than twenty days, and upon such conviction the license of such person shall be revoked.

(1889, c. 48, § 1.)

(7) PROTECTION AGAINST FIRE.

§ 8005. Duty of providing protection.

The proprietors and lessees of all buildings of two or more stories in height, used or occupied as tenements, lodging-rooms, boarding-houses, hotels, public halls, or places of amusement, schools, seminaries, hospitals, asylums, work-houses, jails, or manufactories, shall provide for and equip said buildings with such protection against fire and escape from said buildings as shall be hereinafter set forth in this bill.

(1883, c. 133, § 1; G. S. 1878, v. 2, c. 124, § 198.)

§ 8006. Classification of buildings.

The classification of buildings shall be as follows:

First. Hotels of two stories in height, with ten or more sleeping-rooms.

Second. Hotels or lodging-rooms of three or more stories in height.

Third. Tenements or boarding-houses of three or more stories in height, occupied by one or more families, consisting of more than twenty persons: *provided*, a mansard roof or attic, when used as sleeping-rooms, shall be counted as one story.

Fourth. Buildings used as opera-houses, theaters, or public halls, of a seating capacity exceeding three hundred.

Fifth. Public school buildings, seminaries, academies, and colleges more than two stories in height.

Sixth. Hospitals and asylums of two or more stories in height.

Seventh. Jails, work-houses, or other prisons for confinement of persons under sentence of crime or misdemeanor.

Eighth. Manufactories over two stories in height, employing above the first story more than twenty-five persons.

(1883, c. 133, § 2; G. S. 1878, v. 2, c. 124, § 199.)

§ 8007. Same—Appliances.

Provides for the appliances to be used as follows:

Buildings under classification one of section two of this act. Each two thousand five hundred superficial feet of area, or fractional part thereof, covered by said building, shall be provided with either an inside stand-pipe of not less than one and one-quarter inches inside diameter, with hose connec-

⁴An act relating to hotel and other runners. Approved April 23, 1889.

⁵An act for the preservation of life and the protection of travelers. Approved March 2, 1883. Took effect from and after July 1, 1883.

tion and hose of sufficient length always attached, in the hall into which the sleeping-rooms open, and this stand-pipe supplied by means of connection with public or private water-works, which will furnish sufficient pressure; or one chemical fire-extinguisher kept near the public stairway or other convenient locality in the hallway, always charged ready for use.

Buildings under classification two. Each six thousand superficial feet of area covered by said building shall be provided with either an inside stand-pipe of not less than one and three-quarters inches inside diameter, and sufficient hose connected with it, of not less than one and one-quarter inches inside diameter, on each floor, and furnished with a constant water-pressure by water-works, or by a steam-pump, which can be put in action at [a] moment's notice; or for six thousand superficial feet of area covered by said building there shall be one two and one-half inch (or larger) metallic stand-pipe, with metallic ladder attached above the first story, located upon the outside of the wall, and extending above the roof, and so situated as to give access to or exit from each story and roof above the first, arranged with valves and male-hose connections at each story above the first and roof, and with single or double female-hose connection at base of pipe, so that engine hose can be attached from street; the hose couplings to conform to the size and pattern used by the fire department where located. There shall also be provided for each eight thousand and five hundred superficial feet of area, or fractional part thereof, covered by said building, at least one chemical fire-extinguisher on each floor occupied as sleeping apartments: *provided*, that in hotels, where every three thousand and five hundred superficial feet is protected by stand-pipe and hose, as set forth in this act, then only one chemical fire-extinguisher shall be required on each floor occupied as sleeping apartments. In case the stand-pipe and hose first mentioned is not practicable, for want of water-works or steam to work pumps, then, in addition to the extinguisher provided for, there shall be placed in each hallway of floors used as sleeping-rooms, for each two thousand five hundred superficial feet of area, one barrel of water, with two pails, with the words "For fire purposes only" painted thereon. Each sleeping apartment above the second story shall be furnished with a rope or any other practical fire-escape of sufficient length to reach the ground. A red light shall be kept burning all night, located at the head of each stairway above the first floor; also one on each floor above the first, at, or near the exit to the stationary fire-escape, if any. The following printed notice shall be posted in a conspicuous place in each sleeping-room above the first floor: "Exit in case of fire. Upon leaving this room turn to the (right or left) and by passing (give number of feet) feet you will reach a red light, which indicates (stairway or fire-escape.)"

Buildings under classification three of section two of this act shall have for each five thousand superficial feet of area covered by said building, at least one outside stand-pipe, two and one-half inches or larger, as provided for in classification two, and at least one non-combustible ladder or stairway for each twenty persons occupying said building above the first story.

Buildings under classification four of section two of this act shall be provided with at least one stand-pipe running to the stage, and furnished with hose always connected, and of sufficient length to reach all parts of the stage; also with a chemical fire-extinguisher always charged and placed in a convenient place to protect the scenery; or, in case the stand-pipe should be impracticable for want of constant water-pressure, then the stage shall be provided with two chemical fire-extinguishers, and at least one barrel of water and two pails, with the words "For fire purposes only" painted thereon. It is provided, however, that this shall not apply to halls where no stage with curtains or scenery is used; and all buildings under this classification shall have such number of exits of such area, and such number of non-combustible stairways, ladders, or fire-escapes, as the mayor, chief engineer of fire depart-

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ment, and chief of police of any city, or president of any town or village council, chief engineer or fire-warden, and chief of police or constable of any town or village, or a majority of them, may from time to time determine.

Buildings under classification five of section two shall be provided, where practicable, with inside stand-pipe, as provided in classification two, or an outside stand-pipe, as provided in same classification; also, one chemical fire-extinguisher on each floor above the first. There shall also be provided such number of exits of such area, and such number of non-combustible ladders or stairways, as the persons named in classification four, or a majority of them, may determine.

Buildings under classification six of section two shall be provided for in the same manner as those under head of classification five.

Buildings under classification seven of section two shall be provided with either a stand-pipe and sufficient hose connected on each floor with constant water pressure, or shall have a chemical fire-extinguisher on each floor. It is provided, however, that this shall not apply to buildings built of stone, brick, or iron, with non-combustible partitions and roof practically fire-proof.

Buildings under classification eight of section two of this act, for each two thousand five hundred superficial feet of area covered by said building, shall be provided with an inside stand-pipe of not less than one and one-half inches diameter, and sufficient hose connected therewith of not less than one and one-quarter inches inside diameter on each floor, and furnished with a constant water pressure by water-works, or by steam or other pump, which can be put in motion at a moment's notice; or for each five thousand superficial feet of area covered by said building, there shall be one two and one-half inch or larger metallic stand-pipe, with metallic ladder attached, above the first story, located and arranged as provided for in classification two; also, one chemical fire-extinguisher located on each floor above the first. There shall also be provided for every forty persons employed above the second story, one non-combustible stairway, or for every twenty persons one non-combustible ladder, located upon the outside of the building, accessible from roof and each story above the first, and reaching to or within twelve feet of the ground or sidewalk.

Also provides that all stand-pipes, ladders, and non-combustible stairways required by this section shall be provided by the owner or owners of the building, and all other requirements of this section shall be provided by the lessees of such building, unless otherwise agreed upon between the owner or owners and lessees.

(1883, c. 133, § 3; G. S. 1878, v. 2, c. 124, § 200.)

§ 8008. Fire-extinguishers.

Provides that the chemical fire-extinguisher to be used shall be the one in general use in the fire departments, factories, and public buildings in the state of Minnesota, and known as the Babcock or Champion portable fire-extinguisher.

(1883, c. 133, § 4; G. S. 1878, v. 2, c. 124, § 201.)

§ 8009. Duty of enforcing act—Violation of act—Penalty.

It is hereby made the duty of every fire-warden, marshal, or chief of police of every incorporated town, village, or city, or, where such officers are not provided for, the board of education, directors of school-districts, and boards of county commissioners, to enforce this act, and any person failing to comply with the provisions of this act within thirty days after being notified by the proper officer in writing, shall pay or forfeit the sum of one hundred dollars, with cost of prosecution of the same, to be enforced by civil action before any competent tribunal, or imprisoned until such fine and cost are paid, not exceeding ninety days; the money arising from such fines to be paid to the use of common schools of the district where such offense shall be committed.

(1883, c. 133, § 5; G. S. 1878, v. 2, c. 124, § 202.)

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(8) CHILDREN.

§ 8010. Diseased eyes in infants to be reported.

Whenever one or both eyes of an infant become inflamed, reddened or diseased at any time within two months after its birth it shall be the duty of any midwife, nurse or other person, having charge of such infant, to report the fact of such affection of the eye or eyes, in writing, and within twelve hours after the ascertainment of the fact of such inflammation, to the health officer, county physician or some legally qualified practitioner of medicine of the city, town, village or immediate vicinity of the persons having charge of said infant.

(1893, c. 32, § 1.7)

§ 8011. Same—Duty of health officers.

It shall be the duty of any health officer or county physician to whom may have been reported any case of eye disease in a newly-born child to forthwith visit said child, and to take immediate medical charge of the treatment of said child; provided that said child be not already in charge of a competent medical practitioner.

(Id. § 2.)

§ 8012. Same—Penalty for neglect.

Any failure to comply with the provisions of this act shall be punished by a fine not to exceed one hundred dollars, or imprisonment not to exceed three months.

(Id. § 3.)

§ 8013. Commitment of child to orphan asylum.

When, upon examination before any court or magistrate, it shall appear that any child within the age previously mentioned in this act was engaged or used for or in any business, or exhibition, or vocation, or purpose designated, and as mentioned in this act; and when, upon the conviction of any person having the custody of a child, of a criminal assault upon it, the court or magistrate before whom such conviction is had shall deem it desirable for the welfare of such child that the person so convicted should be deprived of its custody thereafter,—such court or magistrate may commit such child to an orphan asylum, charitable, or other institution, or make such other disposition thereof as now is or hereinafter may be provided by law, in cases of vagrant, truant, disorderly, pauper, or destitute children.

(1879, c. 75, § 3; G. S. 1878, v. 2, c. 99, § 36.)

See §§ 2929, 2937, 3016.

§ 8014. Abuse of children—Penalty.

Whoever shall willfully cause or permit any child to suffer, or who shall inflict thereon unjustifiable physical pain or mental suffering; and whoever, having the care or custody of any child, shall willfully cause or permit the life of such child to be endangered, or the health of such child to be injured; [or who shall willfully cause or permit such child to be placed in such a situation that its life may be endangered, or its health shall be likely to be injured.]—shall be guilty of a misdemeanor, and, on conviction thereof, shall be punished by a fine of not less than ten, nor more than one hundred, dollars, and shall be committed to the county jail until such fine is paid, not exceeding ninety days.

(1879, c. 75, § 4; G. S. 1878, v. 2, c. 99, § 37.)

That part of the section within brackets, being an offense defined and made punishable by § 248 of the Penal Code (§ 6537), appears to be repealed, without repealing the remainder of the section.

§ 8015. Disposition of fines.

All fines, penalties, and forfeitures imposed and collected in any county in this state, under the provisions of this and of every act passed relating to or affecting children, in every case where the prosecution was instituted or con-

¹An act to prevent blindness in children. Approved February 22, 1893.

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ducted by the Minnesota Society for the Prevention of Cruelty to Animals, or any of its branches, shall inure to such society, in aid of the purposes for which it was incorporated.

(1879, c. 75, § 5; G. S. 1878, v. 2, c. 99, § 38.)

§ 8016. Petition for adoption.

Any inhabitant of this state may petition the district court, in the county of his residence, for leave to adopt a child not his own, and, if desired, for a change of the child's name; but the prayer of such petition, by a person having a husband or wife, shall not be granted unless the husband or wife joins therein.

(1876, c. 91, § 1; G. S. 1878, c. 124, § 26.)

§ 8017. Consent of parent or guardian or next of kin necessary, when.

No such adoption shall be permitted without the consent of such of the parents of the child as may be living, unless it shall appear to the court that either of the parents has abandoned the child, or gone to parts unknown, or that either parent is, by reason of having been declared insane, incapacitated from giving such consent, or that the parents of the child have been divorced, and the care and custody of the child has been by judgment of the court granting such divorce, awarded to one of the parents; in which case, such consent may be given by the parent, if any, having the charge and care of the child. In case neither of the parents is living, or if both parents have been declared insane, or if both parents or the only living parent shall have abandoned the child, such consent may be given by the guardian, if such child has any; and if there be no guardian, such consent may be given by any of the next of kin of such child residing in this state; and if there be no next of kin residing in this state, or if such next of kin be unknown, such consent may be given by the chairman of the board of county commissioners of the county where the petition is made. In case of a child not born in lawful wedlock, such consent may be given by the mother alone, if she is living and has not abandoned such child.

(1876, c. 91, § 2; G. S. 1878, c. 124, § 27; as amended 1889, c. 127, § 1.)

§ 8018. When child must consent.

If the child is of the age of fourteen years or upward, the adoption shall not be made without his consent.

(1876, c. 91, § 3; G. S. 1878, c. 124, § 28.)

§ 8019. Notice of hearing of petition—Publication.

If such child has no parent living, or has been abandoned by its parents, and has no guardian nor next of kin in this state, or if his next of kin, if any, are unknown, the court shall, before hearing the petition, order notice of such hearing and of the time and place thereof, as fixed by the court, to be given by publication thereof in some newspaper of general circulation, published in the county where such petition is presented, at least once in each week for three successive weeks, the last publication to be at least ten days before the time fixed for the hearing. If there be no newspaper published in such county, then the notice may be published, as aforesaid, in some newspaper published at the capital of the state.

(1876, c. 91, § 4; G. S. 1878, c. 124, § 29.)

§ 8020. Proceedings on hearing—Decree.

If upon the hearing of the petition so presented and consented unto as aforesaid, the court shall be satisfied of the identity and relations of the persons concerned, and that the petitioner is, or in case of husband and wife, that the petitioners are, of sufficient ability to bring up the child, and to furnish him suitable nurture and education, and that it is fit and proper that the petition for leave to adopt such child be granted, a decree shall be made setting forth the facts, and ordering that from and after the date of the decree the child shall be deemed and taken to be the child of the peti-

⁸ An act providing for the adoption of children. Approved February 26, 1876.

tioner or petitioners, and the court may, if desired, in and by the same decree, change the name of such child.

(1876, c. 91, § 5; G. S. 1878, c. 124, § 30.)

§ 8021. Status of adopted child.

A child so adopted as aforesaid shall be deemed, as respects all legal consequences and incidents of the natural relation of parent and child, the child of such parent or parents by adoption, the same as if he had been born to them in lawful wedlock; except that such adoption shall not, in itself, constitute such child the heir of such parent or parents by adoption. Provided, That upon the request of any person adopting a child, the court may decree, that the child so adopted shall be the heir of said person, and in that case said child shall inherit from said parent in the same manner in all respects as if born to said parent in lawful wedlock. In cases of adoption heretofore, where it is provided in the decree that the child shall be the heir of the parent adopting, said decree is declared to be valid and effectual to constitute such said child the heir of said parent; and, where the decree does not so provide, a further decree may be entered upon application of the parent adopting, constituting such child the heir of such parent in all respects as aforesaid.

(1876, c. 91, § 6; G. S. 1878, c. 124, § 31; as amended 1891, c. 96, § 1.)

§ 8022. Effect of decree.

The natural parents of such child shall be deprived by the decree aforesaid of all legal rights respecting the child, and such child shall be free from all obligations of maintenance and obedience respecting his natural parents.

(1876, c. 91, § 7; G. S. 1878, c. 124, § 32.)

§ 8023. Adopted child—Estate—Distribution—Right of inheritance.

In case any person heretofore or hereafter adopted, either according to the provisions of this chapter or in any other lawful manner, shall die intestate, his property, acquired by himself or by gift from his adopting parent, shall be distributed according to the provisions of the laws in force at the time of decease of such intestate, relating to the title of real property by descent, and the distribution of personal estate among the persons who would have been his kindred if he had been born to his adopting parent in lawful wedlock; and property received by gift or inheritance from his natural parents or kindred shall be distributed in the same manner as if no act of adoption had taken place, such distribution to be ascertained in such manner as the court may decree. No person shall, by being adopted, lose his right to inherit from his natural parents or kindred.

(Added 1885, c. 75, § 1; G. S. 1878, v. 2, c. 124, § 32a.)

§ 8024. Interpretation of "child" in grants, etc.

The term "child," or its equivalent, in a grant, trust settlement, devise, or bequest shall be held to include a child adopted by the settler, grantor, or testator, unless the contrary plainly appears by the terms of the instrument; but when the settler, grantor, or testator is not himself the adopting parent, the child by adoption shall not have, under such an instrument, the rights of a child born in lawful wedlock to the adopting parent, unless it plainly appears to have been the intention of the settler, grantor, or testator to include an adopted child.

(Added 1885, c. 75, § 1; G. S. 1878, v. 2, c. 124, § 32b.)

(9) CHANGE OF NAMES OF PERSONS.

§ 8025. Jurisdiction of district court exclusive.

The several district courts of this state shall hereafter have the exclusive right to change the name of any person, and to make such person the heir-at-law of any person, whose heir-at-law such applicant applied to be made,

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SUBJECTS FOR DISSECTION.

§§ 8025-8031

when applied to for those or either of those purposes, as hereinafter provided.

(1872, c. 35, § 1,⁹ as amended 1873, c. 71, § 1; G. S. 1878, c. 124, § 33.)

§ 8026. Applicant, how to proceed—Witnesses.

Any person who shall have resided in any judicial district in this state for a period of not less than one year, may make application to the district court of such district to have his or her name changed. Such person shall appear personally before such court, (and in case of an infant, by such infant's guardian, adoptive parent, or next of kin,) with two witnesses and prove to the satisfaction of the court, that such person is the identical person he or she represents him or herself to be; and in case such applicant shall apply to be made the heir at law of any person, then such person whose heir at law such applicant applies to be made, shall appear as one of the witnesses and acknowledge that such application is made in good faith.

(1872, c. 35, § 2; G. S. 1878, c. 124, § 34.)

§ 8027. Applications—Contents.

All applications to the district court for a change of name shall contain a description of all lands in this state which the applicant shall, at the time the application is made, own, have a lien upon, or an interest in.

(1887, c. 177, § 1;¹⁰ G. S. 1878, v. 2, c. 124, § 35a.)

§ 8028. Proof.

Such applicant shall make proof before the court of his ownership of, lien upon, and interest in such land, and the order of the court changing such name shall describe such lands, and state the estate or interest the applicant has or claims therein; and a certified copy of such order shall be recorded in the office of the register of deeds where such lands are situated, within thirty days after the order is made.

(1887, c. 177, § 2; G. S. 1878, v. 2, c. 124, § 35b.)

§ 8029. False statement a misdemeanor.

Any false statement contained in such application, made with intent to defraud, is hereby declared to be a misdemeanor, and shall be punishable as such.

(1887, c. 177, § 3; G. S. 1878, v. 2, c. 124, § 35c.)

§ 8030. Application granted, when—Certificate.

If it shall appear to such court that such change of name is necessary and proper, the said court shall proceed to grant said application, and the clerk of said court shall enter a memorandum thereof on the record of said court, and also issue a certificate to the applicant, certifying to the fact; for which entry and certificate the clerk shall receive a fee of two dollars, to be paid by the person making the application. Such certificate shall be prima facie evidence of such change of name.

(1872, c. 35, § 3; G. S. 1878, c. 124, § 35.)

(10) SUBJECTS FOR DISSECTION.

§ 8031. Delivery of corpse for dissection.

It shall be the duty of, and it is hereby required of, the wardens of penitentiaries, superintendents of poor-houses, coroners, undertakers, and all other persons under whose control or custody the remains or body of any deceased person may come, to deliver such remains or body to a committee of three, who shall be appointed by the deans of the several medical colleges and schools in this state, and for the physicians, professors, and teachers in such medical colleges and schools, to receive the same for the purposes of medical and surgical study: *provided*, all expenses for the removal and burial of such remains

⁹An act to authorize the several district courts of this state to change the name of person or persons. Approved February 29, 1872.

¹⁰An act with reference to the change of names of persons. Approved March 7, 1887.

or body shall be paid by the college or medical school which shall receive the same: *and provided*, such committee so selected shall distribute such remains or bodies *pro rata* among such medical colleges and schools in proportion to the number of students enrolled therein: *and provided*, that such remains shall not have been regularly interred, and shall not have been desired for interment by any relative of said deceased within thirty-six hours after death: *and provided, also*, that the remains of no person who may be known to have relatives shall be so delivered, or received, without the consent of such relatives: *and provided*, that the remains of no person detained as a witness or under suspicion of having committed a crime, or any person who shall have expressed a desire in his or her last sickness that his or her body may be interred, shall be delivered or received as aforesaid: *and provided, also*, that in case the remains of any person so delivered or received shall be subsequently claimed by any relative, they shall be given up to such relative for interment: *and provided, also*, that if any such warden, superintendent, undertaker or other person in whose custody or control any such remains or body shall be, shall fail to notify and deliver over, to such committee so selected, such remains or body within thirty-six hours after the same shall have come into their possession, they shall be deemed guilty of a misdemeanor, and shall, on conviction thereof, be imprisoned in the county jail for a period not exceeding ninety days, or pay a fine of not less than twenty-five dollars, nor more than one hundred dollars, or both, in the discretion of the court.

(1872, c. 22, § 1; G. S. 1878, c. 124, § 36; as amended 1887, c. 40.)

§ 8032. Remains, after dissection, to be buried — Penalty for neglect.

And it shall be the bounden duty of said physicians, professors or teachers, decently to bury, in some public cemetery, the remains of all bodies after they shall have answered the purposes of study aforesaid; and for any neglect or violation of the provisions of this act, the party so neglecting shall forfeit and pay a penalty of not less than \$25.00 or more than \$50.00, to be sued by the health officers of said cities, or other places, for the benefit of their department.

(1872, c. 22, § 2; G. S. 1878, c. 124, § 37.)

§ 8033. Dissection to be within the state—Penalty for violation.

The remains and bodies of said persons as may be so received by the physicians, professors and teachers, as aforesaid, shall be used for the purposes of medical and surgical study alone, and in this state only; and whoever shall use such remains for any other purpose, or shall remove such remains beyond the limits of this state, or in any manner traffic in the same, shall be deemed guilty of a misdemeanor and shall, on conviction, be imprisoned for a term not exceeding one year in the county jail, or pay a penalty not less than \$300.00 or more than \$1,000.00.

(1872, c. 22, § 3; G. S. 1878, c. 124, § 38.)

§ 8034. Violation of § 8031—Penalty.

Every person who unlawfully shall exhume, remove, or carry off the remains or any part of the remains of any deceased person, or who shall deliver up such remains in violation of, or contrary to any or all of the provisions contained in the first section of this act, and every person who shall receive said remains, knowing the same to have been exhumed, removed, carried off, or delivered contrary to any or all of the provisions of this act, shall, each and every one of such persons, be deemed guilty of a felony, and shall on conviction be imprisoned in the state prison for a term not exceeding four years.

(1872, c. 22, § 4; G. S. 1878, c. 124, § 39; as amended 1879, c. 42, § 1.)

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HONORABLY DISCHARGED SOLDIERS.

§§ 8035-8040

(11) FLAGS.

§ 8035. **Flags of Minnesota regiments.**

The governor of this state is hereby authorized to procure a suitable case of glass and wood, in which to keep the flags carried by Minnesota troops during the late war.

(1866, c. 57, § 1; G. S. 1878, c. 124, § 47.)

§ 8036. **Same—To be kept at capitol.**

Said case shall be kept in one of the main halls of the capitol.

(1866, c. 57, § 2; G. S. 1878, c. 124, § 48.)

§ 8037. **State flag.**

The following named ladies are hereby appointed a commission to adopt a design for a Minnesota state flag: Mrs. Franklyn L. Greenleaf, Mrs. A. A. White, Mrs. Edward Durant, Mrs. F. B. Clark, Mrs. H. F. Brown, Mrs. A. T. Stebbins.

(1893, c. 16, § 1.¹¹)

§ 8038. **Same—Description of the design.**

The design so adopted shall embody as nearly as may be the following facts: There shall be a white ground with reverse side of blue; the centre of the white ground shall be occupied by a design substantially embodying the form of the seal employed as the state seal of Minnesota at the time of its admission into the Union and described on page 313 of the Legislative Manual of 1891. The said design of the state seal shall be surrounded by appropriate representations of the moccasin flower indigenous to Minnesota. Surrounding said central design and appropriately arranged upon the said white ground shall be nineteen stars emblematic of the fact that Minnesota was the nineteenth state admitted into the Union after its formation by the original thirteen states. There shall also appear at the bottom of the flag in the white ground, so as to be plainly visible the word Minnesota.

(Id. § 2.)

§ 8039. **Same—Photograph—Resolution.**

A photograph of the said design, when adopted by the said commission, shall be placed for preservation in the office of the secretary of state, together with a copy of the resolution by which the said design was adopted, signed by the several members of the said committee, or a majority thereof. The secretary of state shall receive without charge the said design and resolution, and spread the latter upon his records, and thereupon and thereafter the said design shall be the only authorized design of a flag for the state of Minnesota.

(Id. § 3.)

(12) HONORABLY DISCHARGED SOLDIERS.

§ 8040. **Disabled soldiers exempt from poll tax and jury duty.**

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, c. 85, § 1; G. S. 1878, c. 124, § 82.)

For act to relieve certain soldiers from paying bounty tax, see Laws 1866, c. 3, amended 1867, c. 49, and 1887, c. 65. Held unconstitutional in *Le Duc v. City of Hastings*, 39 Minn. 110, 38 N. W. Rep. 803.

For act to commemorate the battles of New Ulm, and appropriate money to erect a monument for that purpose, see Laws 1889, c. 280.

For act to appropriate money to purchase a site for a monument upon the battle and

¹¹An act providing for the adoption of a state flag.

camp ground of Camp Release, in Lac qui Parle county, see Laws 1889, c. 281; 1893, c. 280.

For act to appropriate money for the erection of a monument on the battle field of Gettysburg, see Laws 1889, c. 282; Laws 1891, c. 154.

For act to appropriate money for the erection of a monument over the common grave of 18 persons massacred by the Sioux Indians, August 20, 1862, see Laws 1891, c. 160.

For an act to authorize the name of Peter Quinn to be inscribed on the monument erected in the year 1873, by the state of Minnesota, at Fort Ridgely, etc., see Laws 1893, c. 227.

For act to provide for locating and marking the positions of Minnesota troops in the battles of Chickamauga and Chattanooga, and the erection of monuments on the said battle fields, and to appropriate money therefor, see Laws 1893, c. 228.

For act to appropriate money toward a soldiers' monument to be erected at Lakewood Cemetery, Hennepin county, see Laws 1893, c. 229.

§ 8041. Preference to soldiers, etc., for public employment.

That in every public department, and upon all the public works of the state of Minnesota, and the counties, towns, cities, and villages thereof, honorably discharged Union soldiers and sailors, who are properly qualified, shall be preferred for appointment and employment. Age, loss of limb, or other physical impairment, which does not in fact incapacitate, shall not be deemed to disqualify them: *provided*, they possess the other requisite qualifications for the proper discharge of the duties of the position sought.

(1887, c. 149;¹² G. S. 1878, v. 2, c. 124, § 82a.)

§ 8042. Burial of soldiers.

That it shall be the duty of the board of county commissioners in each county of this state to designate some suitable person in each commissioners' district of their county, whose duty it shall be to cause to be decently and honorably interred the body of any honorably discharged soldier, sailor, or marine who served in the army or navy of the United States during the late war of the rebellion or in the Mexican war, or who served in the campaign against the Indians in the state of Minnesota in the year eighteen hundred and sixty-two, and was not enlisted in the service of the United States, who may hereafter die without leaving sufficient means to defray his funeral expenses: *provided*, that the expense of such burial shall not exceed the sum of thirty-five dollars: *and provided, further*, that in case surviving relatives of the deceased or posts or comrades of the "Grand Army of the Republic" shall desire to conduct the funeral they shall be permitted to do so, and the expenses shall be paid as herein provided.

(1887, c. 150, § 1;¹³ G. S. 1878, v. 2, c. 124, § 82b.)

§ 8043. Same—Head-stones.

The grave of any such deceased soldier, sailor, or marine shall be marked by a head-stone containing the name, date of birth, date of death of the deceased, and the name of the organization to which he belonged or in which he served, or so much of the foregoing as may be obtainable: *provided*, that the said board of county-commissioners shall first have applied to and been unable to obtain such head-stone from the general government: *and provided, further*, that the cost of such head-stone and of placing the same, shall not exceed the sum of fifteen dollars. *Provided*, that when any such head-stone shall be furnished by the general government, the person appointed by the county commissioners, or in case such burial is conducted by the relatives of such deceased soldier, sailor or marine, or by any comrade, or post of the grand army of the republic, then such relatives, comrades or officers of such post conducting such funeral are authorized to purchase a base stone in which to place and erect such headstone at a cost, including the cost of placing the

¹² An act giving preference in appointment and employment to honorably discharged Union soldiers and sailors. Approved February 26, 1887.

¹³ An act to authorize the burial by the state of the bodies of honorably discharged soldiers, sailors, or marines who may hereafter die without having sufficient means to defray his funeral expenses. Approved March 2, 1887.

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same, of not more than seven dollars and fifty cents, and after such stone is placed and erected, proof thereof together with accompanying vouchers, shall be filed with the county auditor to be paid as hereafter provided.

(1887, c. 150, § 2; G. S. 1878, v. 2, c. 124, § 82c; as amended 1889, c. 120, § 1.)

§ 8044. Same—Place of burial—Payment of expenses.

Such burial shall not be made in any cemetery or place used exclusively for the burial of the pauper dead, and the expense of said burial and head-stone shall be paid by the state of Minnesota, as follows. The said board of county commissioners shall report all such expenditures, with accompanying vouchers, properly attested by the county auditor of said county, to the state auditor, who shall thereupon draw his warrant on the state treasurer in favor of and payable to the county treasurer of the county wherein said expenditures were incurred.

(1887, c. 150, § 3; G. S. 1878, v. 2, c. 124, § 82d.)

§ 8045. Appropriation.

There is hereby appropriated from any money in the state treasury not otherwise appropriated the sum of one thousand dollars annually, or so much thereof as may be necessary for the purpose of carrying this act into effect.

(1887, c. 150, § 4; G. S. 1878, v. 2, c. 124, § 82e.)

(13) LICENSE TO SELL ONE'S OWN PRODUCTION.

§ 8046. License on sale of home productions.

Any manufacturer, mechanic or nurseryman, having a legal residence in this state, may sell his own work or production, except spirituous, vinous or malt liquor, manufactured or grown in this state, by paying to the proper authority of any village, town or city of this state, a sum not exceeding five dollars, any law or provisions of law organizing any such village, town or city to the contrary notwithstanding.

(1877, c. 108, § 1; G. S. 1878, c. 124, § 40.)

(14) SALE OF PATENT RIGHTS.

§ 8047. Prerequisites—Certificate from clerk of court.

That it shall be unlawful for any person or persons, to sell, or barter, or offer to sell or barter, in any county within this state, any patent right, or any right which such person shall allege or pretend to be a patent right, without first having filed with the clerk of the district court of such county a true copy of the letters patent, duly authenticated under the seal of the proper officer, and at the same time subscribing and swearing or affirming to an affidavit before such clerk, that such letters patent are genuine, and have not been revoked or annulled, and that he has full authority to sell or barter in such county the right so patented; and said affidavit shall also set forth his name, age, occupation and residence, and if an agent, the name, occupation and residence of his principal. Said affidavit shall be filed in the office of said clerk, who shall give to the applicant 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 to any person on demand.

(1871, c. 26, § 1; ¹⁴ G. S. 1878, c. 124, § 115.)

This act, as an attempt to regulate the sale of patent rights granted pursuant to act of congress, is invalid. *Crittenden v. White*, 23 Minn. 24.

§ 8048. Same—Form of promissory note—Defenses.

Any person who may take any promissory note, or other obligation in writing, for which any patent right, or right claimed or pretended by him or her to be a patent right, shall form the whole or any part of the consideration,

¹⁴ An act to regulate the sale of patent-rights and prevent frauds in connection therewith. Approved March 6, 1871.

shall, before it shall be signed by the maker or makers, insert in the body of said note or other written instrument, above the place of signature of said maker or makers, in plain and legible writing, or print, the words, "Given for a patent right;" and in all cases where such words, or equivalent words, are written or printed upon the face of any note, or other written instrument, the same shall be deemed and taken in all courts and places to be prima facie evidence that the consideration of said note or other instrument was the sale of a patent right, or a pretended patent right, or of the right to make, use or vend the same, or the pretended right to make, use and vend the same; and the same defense may be interposed thereto, if said note or instrument shall have been transferred, that might have been interposed had the same remained in the hands of the person to whom the same was given or made payable.

(1871, c. 26, § 2; G. S. 1878, c. 124, § 116.)

§ 8049. Same—Penalty for violation of act.

Any person who shall sell or barter, or offer to sell or barter, within this state, any patent right, or pretended patent right, or shall take any promissory note or obligation in writing for a patent right, or for what he may call or pretend to be a patent right, without complying with all the requirements of this act, or shall refuse to exhibit the certificate mentioned in section one of this act, whenever demanded, shall be deemed guilty of a misdemeanor, and upon conviction thereof by any court of competent jurisdiction, shall be punished by a fine not exceeding one thousand dollars, or by imprisonment in the jail of the proper county not more than one year, or by such fine and imprisonment both, in the discretion of the court, and shall also be liable to the party injured, in a civil action, for treble the amount of damages sustained.

(1871, c. 26, § 3; G. S. 1878, c. 124, § 117.)

§ 8050. Same—False swearing.

Whoever shall wilfully swear or affirm falsely in regard to any of the matters or things required to be set forth in the affidavit mentioned in section one of this act, shall be deemed guilty of perjury.

(1871, c. 26, § 4; G. S. 1878, c. 124, § 118.)

§ 8051. Same—Fees of clerk of court.

Clerks of the district court shall be entitled to the following fees for their services under this act: for receiving and filing copies of letters patent, one dollar; for administering oaths, twenty-five cents; for the certificate provided in section one of this act, one dollar; for all other certificates, fifty cents.

(1871, c. 26, § 5; G. S. 1878, c. 124, § 119.)

§ 8052. Same—Clerk not to file letters patent, etc., when.

No clerk of the district court shall receive or file in his office any copy of letters patent, unless the same shall have been duly authenticated under the seal of the commissioner of patents, nor shall such clerk issue to any person the certificate mentioned in section one of this act, until such person shall have first fully complied with all the provisions of this act. And if any such clerk shall violate any of the provisions of this act, he shall be adjudged guilty of a misdemeanor, and punished by a fine not exceeding one hundred dollars, or by imprisonment in the county jail not exceeding ninety days, and also be liable in damages to any party injured, in a civil action.

(1871, c. 26, § 6; G. S. 1878, c. 124, § 120.)

§ 8053. Same—Venue of actions on patent-right notes, etc.

All actions commenced before a justice of the peace, in the district court, or in the court of common pleas, in this state, to recover any debt, demand or sum of money, upon any promissory note or other written instrument, where the consideration thereof was for a patent right, or any interest therein, shall be brought in the county where the defendant resides, if a resident

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of this state, at the time of the commencement of such action, and not elsewhere.

(1871, c. 26, § 7, as amended 1874, c. 75, § 1; G. S. 1878, c. 124, § 121.)

§ 8054. Same—"Patent right" defined.

The words "patent right" shall, for the purpose of this act, be construed to include any instrument, article or thing whatsoever, having a part thereof, or attached thereto, or connected therewith, any device, combination or mechanism whatever, upon which letters patent may have been granted and in force, or pretended or represented to have been granted and in force, or either, at the time of the making the note or other written instrument, upon which an action is or may be brought.

(1871, c. 26, § 8; G. S. 1878, c. 124, § 122.)

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