

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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# MINNESOTA STATUTES 1894

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FEES—OF CLERKS OF DISTRICT COURT. §§ 5537-5538.

## CHAPTER 70.

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#### § 5537. Allowance of fees.

For the services mentioned in this chapter, the fees hereinafter described are allowed.

(G. S. 1866, c. 70, § 1; G. S. 1878, c. 70, § 1.)

#### (1) FEES OF CLERKS OF DISTRICT COURTS.

#### § 5538. In general.

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

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

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

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

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

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

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

Every certificate, twenty-five cents.

Calling and swearing grand jury, fifty cents.

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

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

Swearing each witness on trial, ten cents.

Swearing officers to take charge of jury, ten cents.

Entering or taking a recognizance, fifty cents.

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

Receiving and entering a verdict, twenty-five cents.

Entering an action without process, fifty cents.

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

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

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

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

Drawing a special jury, seventy-five cents.

Filing every paper, five cents.

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

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

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

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

Recording certificate of solemnization of marriage, fifty cents.

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

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

Entering a surrender of bail, twenty-five cents.

Issuing commission to take deposition, one dollar.

Issuing *venire facias*, one dollar.

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

Entering forfeiture of recognizance, twenty-five cents.

Entering discharge of bail, twenty-five cents.

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

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

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

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

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

Admission of attorneys, one dollar.

Taxing costs, fifty cents.

Certified copy of marriage record, fifty cents.

Certified transcript of docket entry, fifty cents.

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

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

For all other services required by law to be performed by such clerk, respectively, such fees as compare favorably with the rates herein prescribed, and as may be established by general rule or order of the court: *provided*, that the fees of clerks of the district court, in actions for the foreclosure of mortgages on real estate, where no trial is had, shall not exceed the sum of four dollars for all services required to be performed by said clerks in such actions: *provided, further*, that no civil action, appeal, or proceeding shall be entered in the clerk's office of said district court until the person desiring such entry shall deposit with said clerk the sum of three dollars on account of fees in the case, and out of which the clerk shall satisfy the fees due in such case as they accrue; and whenever said sum or any further deposit is exhausted, said

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clerk may require as a condition for further entries or clerk's fees an additional deposit of one dollar for the purposes and application, aforesaid. Any balance remaining with the said clerk after such application and the determination of the case, shall be returned to the party depositing the same, his agent or attorney. This act shall not apply to the counties of Hennepin or Ramsey or Dakota. Provided, that for searching the judgment docket books of his office and certifying to the existence or non-existence of judgments docketed therein he shall receive as fees the sum of fifty cents.

(G. S. 1866, c. 70, § 2, as amended 1877, c. 120, § 5; 1878, c. 50, § 1; G. S. 1878, c. 70, § 2; 1883, c. 48, §§ 1, 2; 1885, c. 101; 1889, c. 160, § 1; 1893, c. 181, § 1.)

For fees of the clerk of court of Goodhue county, see Sp. Laws 1879, c. 807; same, Kandiyohi county, Sp. Laws 1887, c. 365; same, Mower county, Sp. Laws 1879, c. 808; Sp. Laws 1881, c. 108; same, Otter Tail county, Sp. Laws 1887, c. 358; same, Rice county, Sp. Laws 1879, c. 806.

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

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

A county is not liable for services of the clerk in indexing the judgment records of his office in books provided for in Laws 1885, c. 181, though the work be directed, and the fees fixed, by order of the judge of the district court. *Rasmusson v. County of Clay*, 41 Minn. 283, 43 N. W. Rep. 3.

## § 5539. Limitation of Laws 1877, c. 120.

The provisions of this act shall not affect the salary of any county officer whose salary is now provided for by special law for such county, fixing his salary, nor to the salary, fees or clerk hire of the county auditor or county treasurer of the county of Dodge, but such officers shall be entitled to receive only such salary, fees and clerk hire as is now by law provided; nor to the counties of Ramsey and Hennepin, nor Kandiyohi.

(1877, c. 120, § 6, as amended 1878, c. 50, § 2; G. S. 1878, c. 70, § 3.)

## § 5540. In counties where compensation is \$800 or less.

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

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

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

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

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

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

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

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

Every certificate, twenty-five cents.

Calling and swearing grand jury, one dollar.

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

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

Swearing triers, ten cents for each oath administered.

Swearing each witness on trial, fifteen cents.

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

(1881, c. 120, § 1; G. S. 1878, v. 2, c. 70, § 2a.)

## § 5541. In Dakota county.

The clerk of the district court shall be allowed to charge the same fees as now provided by law, except that such officer shall charge for issuing subpoenas the sum of thirty cents, and no more, and in any criminal case such clerk shall not be allowed to charge for more than two subpoenas; for certificate of jurors' and witness' attendance upon court, the sum of ten cents, and no more; for entering the final admission of an alien, (including all oaths required by law to be administered,) fifty cents, and no more; and for entering a declaration to become a citizen of the United States, (including all oaths required by law to be administered,) the sum of fifty cents, and no more; and the said clerk is further prohibited from making any charge to said county for

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stationery, or for postage, or for express in the transmission of papers to and from his office.

(Sp. Laws 1887, c. 394, § 6; <sup>1</sup> G. S. 1878, v. 2, c. 70, § 4c.)

## § 5542. In Hennepin county.

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

For each entry of a discontinuance, nonsuit, or default, five cents.

For each entry of every return on writ or order, five cents.

For certified copies of orders, seven and one-half cents for each folio.

For every report upon an assessment of damages, seven and one-half cents for each folio.

For every certificate, ten cents.

For calling and swearing jury, twenty-five cents.

For administering oath and making entry thereof in minutes of court, ten cents.

For making certificate thereof at request of party, ten cents.

For entering every recognizance, twenty-five cents.

For entering every cause on calendar for court, and making copy thereof for the bar, ten cents.

For receiving and entering a verdict, fifteen cents.

For entering every cause or suit in register, fifteen cents.

For certified copies of the minutes of a trial, when requested, seven and one-half cents per folio.

For entering every final judgment, twenty-five cents, and seven and one-half cents for each folio exceeding three.

For indexing case in register, five cents.

For copy of judgment to be attached to judgment roll, seven and one-half cents per folio.

For entering satisfaction of judgment, five cents for each debtor.

For drawing a special jury in cause, fifty cents.

For writ or subpoena, when issued on request, under seal, twenty cents.

For copies and exemplification of records and of pleadings, seven and one-half cents per folio.

For searching the records or files in his office if a copy is not required, fifteen cents.

For taking affidavits and acknowledgments, including certificate thereof, not otherwise provided for herein, twenty cents.

For recording credentials of ordination of ministers and giving certificates of the same, fifty cents.

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

For entering a surrender of bail, ten cents.

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

For issuing a *venire facias*, forty cents.

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

For entering forfeiture of recognizance, ten cents.

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

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

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

<sup>1</sup> By § 9, "all acts and parts of acts inconsistent with this act are hereby repealed, so far as they apply to the county of Dakota, and no general law passed in the future shall be construed to apply to said county, when its provisions are in conflict with this act, unless such application is specifically mentioned."

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

For transcript of judgment, twenty-five cents.

For filing papers, five cents each.

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

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

For taxing costs, fifteen cents.

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

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

(Sp. Laws 1881, c. 408, § 2, as amended by Sp. Laws 1881, Ex. S. c. 47; G. S. 1878, v. 2, c. 70, § 4b.)

See, also, Sp. Laws 1891, c. 373, § 4.

See *Davenport v. County of Hennepin*, 40 Minn. 335, 42 N. W. Rep. 20.

## § 5543. In Ramsey county.

The fees and compensation of the clerk of the district court shall be as follows:

For entering a discontinuance, nonsuit, or default, ten cents.

Entering every return or writ or order, six cents for each folio.

For certified copies of orders, six cents for each folio.

For every report upon an assessment of damages or matters referred to him, six cents for each folio. Every certificate, fifteen cents; but not to be allowed for certifying any paper to be a copy, for the copying of which he shall be paid.

Calling and swearing a jury, thirty cents.

Swearing each witness on trial, six cents.

Swearing officers to take charge of jury, six cents.

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Entering any recognizance, thirty cents.

Entering any cause on calendar for court and making copy thereof for the bar, ten cents.

Receiving and entering a verdict, fifteen cents.

Entering any cause or suit in register, fifteen cents.

Certified copy of the minutes of a trial when requested, six cents per folio.

Entering any final judgment, twenty cents, and six cents for each folio exceeding three folios.

For indexing case in register and judgment book, ten cents.

For copy of judgment to be attached to judgment roll, six cents for each folio.

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

Drawing a special jury in cause, thirty-five cents.

For a writ or subpoena when issued by the clerk on request, and sealing the same, twenty cents.

Copies and exemplifications of record, pleadings and returns to supreme court, six cents for each folio, and when return is printed, three cents for each folio, for comparing and certifying the same.

Searching the records or files in his office, if a copy is not required, twenty-five cents.

For administering oaths not otherwise provided herein, ten cents.

Recording credentials or ordination of ministers, and giving certificates of the same, seventy-five cents.

Entering an appeal from justice court or municipal court, twenty cents.

Entering surrender of bail, fifteen cents. Issuing a commission to take deposition, fifty cents.

Issuing a *venire facias*,\* thirty cents.

Certificate of juries or witnesses in attendance at court, including the affidavit and filing the same, five cents, to be paid from the county treasury.

Entering forfeiture of recognizance, fifteen cents.

Entering discharge of bail, fifteen cents.

For entering, swearing, and certified copy of declaration to become a citizen of the United States, twenty-five cents.

For certified copy thereof, twenty-five cents.

For entering the final admission of an alien to the rights of citizenship, swearing witnesses and certifying the same, twenty-five cents.

For certified copy thereof, twenty-five cents.

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

For filing and docketing transcript of judgment from another county, justice or municipal court, twenty cents, and ten cents for each additional judgment debtor in addition to the fees for entering the cases.

For docketing and entering the return of, and filing execution, fifteen cents.

For certified copy or transcript of judgment, thirty-five cents.

For filing papers, five cents each.

For granting license of marriage\* with the seal affixed thereto, administering the oath to the applicant therefor, recording the certificates of marriage and filing the necessary papers, one dollar.

Taxing costs, twenty cents.

For recording commission of notary public, and certifying the same, fifty cents.

For issuing subpoena, drawing jury, swearing jury, copying indictments, taking recognizances, issuing orders to show cause, bench warrants, or making and entering any order of court in any case in which the state of Minnesota or the county of Ramsey is a party, there shall be allowed the clerk, payable out of the county of Ramsey, the sum of one hundred dollars per annum, in full for all of said service.\*

For making return to commissioner of statistics, and entering in book the number of births and deaths\* for each year, the sum of five cents for each name, payable out of the county of Ramsey.

For copying, entering and making certified copy of judgments for delinquent taxes returned to clerk's office by county auditor for judgment, the sum of five cents for each and every description, to be paid by the county of Ramsey,

\* See § 5544.



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the said five cents to be taxed in the judgment to each lot as a disbursement paid out by the county of Ramsey.\*

For entering the case of the county of Ramsey against persons for personal taxes, including the issuing order to show cause, entry of cause on calendar, order of court for judgment and one execution, the sum of one dollar, payable out of the county treasury of the county of Ramsey, the one dollar to be included in judgment as a disbursement.

For entering and making certified copy of city tax assessment cases\* and satisfying judgments, the sum of five cents for each and every description, payable out of the city treasury.

Entering and making order, taking affidavits, making certificates of commission of attorney and serving same, one dollar.

Attendance at court, three dollars per day. When more than one session of court shall be held at the same time, requiring the attendance of the clerk by deputy at one or more of such sessions, two dollars per diem shall also be allowed for such necessary deputy or deputies.

And no civil action, proceeding or appeal shall be entered in the clerk's office of the district court until the plaintiff, relator or appellant desiring such entry, shall deposit with the said clerk the sum of one dollar, as security for the clerk's fee in such action, proceeding or appeal, and out of which the said clerk shall satisfy the fees due from such party, as they accrue, and whenever said sum is exhausted, but not before, the said clerk shall require as a condition of further entries for said party an additional deposit of one dollar for the purpose and application aforesaid, and the same amount in the same condition for the same purpose on application, whenever such exhaustion occurs, and any balance remaining after the termination of the action, proceeding or appeal shall be returned to the party depositing the same, or to his attorney in the proceedings. This provision shall not apply in cases wherein the city of St. Paul or Ramsey county are interested, or the state of Minnesota.

(Sp. Laws 1883, c. 286, § 3.)

\*See § 5544.

By § 6, "all acts and parts of acts inconsistent herewith, so far as they relate to Ramsey county, and all laws contravening the provisions of this act, are hereby repealed."

## § 5544. Same.

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

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

For all real-estate tax judgments entered and docketed by him, the sum of twelve cents each, which sum shall be included in the accrued penalty, costs, and disbursements taxed in said judgment, and be payable as now prescribed by the general laws of the state.

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

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

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

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

(Sp. Laws 1887, c. 363, § 2; G. S. 1878, v. 2, c. 70, § 4a.)

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OF WITNESSES.

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## (2) FEES OF THE CLERK OF THE SUPREME COURT.

### § 5545. Schedule of fees.

For drawing a writ of error, or other process issued under the seal of the court, one dollar.

Affixing the seal to any process of the court, twenty-five cents.

Filing papers, ten cents for each paper. ;

Reading and filing any petition relating to any proceeding in court, ten cents.

Entering the appearance or default of appellant or plaintiff, or of defendant or respondent, fifteen cents.

Entering every rule or order, fifteen cents for each folio.

A certified copy of every such rule or order, and of all papers, pleadings and proceedings filed with him, ten cents for each folio.

Entering a decree or sentence, ten cents for each folio.

Entering a judgment or order, fifteen cents for every judgment debtor; ten cents for each folio more than two.

Engrossing a remittitur to be sent to a district court, ten cents for each folio.

Every certificate, twenty-five cents.

Taxing costs, fifty cents.

Entering satisfaction of record, fifteen cents.

Taking security, fifty cents.

Entering each cause in the calendar, and making copy for the bar, ten cents.

Searching records and files in his office, twenty cents for the records or files of each year.

For services required by law or the rules of the court, not herein provided for, such fees as the court direct.

Admission of attorneys, two dollars.

(G. S. 1866, c. 70, § 3; G. S. 1878, c. 70, § 5.)

## (3) FEES OF COMMISSIONERS TO TAKE TESTIMONY

### § 5546. To have same fees as justices.

The person to whom any commission issues to take testimony in any action shall receive the same fees as allowed to justices of the peace for the same services. ;

(G. S. 1866, c. 70, § 4; G. S. 1878, c. 70, § 6.)

## (4) FEES OF JUDGES OF PROBATE.

By G. S. 1866, c. 70, § 5, the fees of judges of probate for their various official acts were regulated. The judge is now a salaried officer. See § 4416.

## (5) FEES OF EXECUTORS AND ADMINISTRATORS.

G. S. 1866, c. 70, § 6; G. S. 1878, c. 70, § 7; repealed by § 4737.

## (6) FEES OF WITNESSES.<sup>2</sup>

### § 5547. Mileage—Experts.

For attending in any action or proceeding pending in a court of record, one dollar for each day.

For attending in any justice's court, or before any officer, person or board authorized to take the examination of witnesses, one dollar for each day.

For traveling, at the rate of six cents per mile, in going to and returning from the place of attendance, to be estimated from the residence of such witness, if within this state, or from the boundary line of this state which such

<sup>2</sup> Elective or appointive officers of the city of Minneapolis are not to receive fees as witnesses in certain cases. Sp. Laws 1889, c. 441.

witness passed in coming, if his residence is out of the state: provided, that the judge of any court of record in this state, before whom any witness is summoned, or sworn and examined, as an expert in any profession or calling, may, in his discretion, allow such fees or compensation as, in his judgment, may be just and reasonable.

(G. S. 1866, c. 70, § 7, as amended 1872, c. 76, § 1; G. S. 1878, c. 70, § 8.)

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

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

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

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

The provision as to expert witnesses has reference to an allowance to be made after the witness has been summoned, and dismissed without being sworn or examined, or after he has been sworn and examined, and not before. *State v. Tiepner*, 36 Minn. 535, 32 N. W. Rep. 673.

The affidavit of the travel of a witness should state the place of his residence, and the number of miles he traveled as such witness in going from such place of residence to the place of trial, and returning therefrom. *Merriman v. Bowen*, 35 Minn. 297, 23 N. W. Rep. 921.

#### § 5548. One day's fees and mileage to be paid in advance.

No person is obliged to attend as a witness unless the fees are paid or tendered to him which are allowed by law for one day's attendance as a witness, and for travelling to and returning from the place where he is required to attend.

(G. S. 1866, c. 70, § 8; G. S. 1878, c. 70, § 9.)

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

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

#### § 5549. Witness fees in criminal cases.

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

(G. S. 1866, c. 70, § 9, as amended 1870, c. 77, § 1; G. S. 1878, c. 70, § 10; 1881, c. 74, § 1.)

See *Wilcox v. County of Sibley*, 34 Minn. 214, 25 N. W. Rep. 351; *Hendershott v. County of Fillmore*, 45 Minn. 281, 47 N. W. Rep. 810.

#### (7) FEES OF SHERIFFS.

#### § 5550. In general.

For serving a summons, or any process issued by a court of law, one dollar for each defendant served.

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

Taking and approving a bond, fifty cents.

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

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

Collections on executions, when the same is collected or settled after levy at the rate of four per centum upon the first two hundred and fifty dollars, and two per centum upon the excess of said sum.

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

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

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

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

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

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

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

Summoning a jury pursuant to any precept or summons of any officer in special proceedings, two dollars; and attending such jury, when required, one dollar.

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

Attending court, three dollars per day.

Boarding prisoners, four dollars per week.\*

Serving attachment upon any ship, boat or vessel, in proceedings to enforce any lien thereon created by law, three dollars, and such additional compensation for his trouble and expense in taking possession of and preserving the same as the officer issuing the warrant shall certify to be reasonable.

Selling any ship, boat, vessel, or the tackle, apparel and furniture thereof so attached, and for advertising the same, the same fees as are allowed on executions.

Making and returning an inventory and an appraisal of property attached in any case, two dollars per day to each appraiser for each day actually employed, and one dollar for each half day.

Summoning grand or petit jurors, fifty cents for each juror summoned, and mileage at fifteen cents per mile for the number of miles necessarily travelled in summoning the panel.

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

Selling lands on foreclosure of mortgage by advertisement, and executing

\*See Laws 1893, c. 157, § 11.

certificate and deed to purchaser, and for all services required on such sale, three dollars.

Selling land on decree by foreclosure, and executing a deed, and for all services required in making such sale, the sum of three dollars.

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

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

For diligent search and inquiry, and returning summons, when parties can not be found, one dollar; and returning execution when no property found, one dollar.

Receiving and paying over the money paid on redemption of property, and executing certificate therefor, one per cent. on the amount so received and paid, to be collected from the person redeeming such property.

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

For all United States revenue stamps, now or hereafter required by law to be used upon any certificate, deed, or other instrument, the cost of such stamps so used, and also such sum as may be required to be paid to the United States government as a tax on any sale made by him.

For any services not herein enumerated, which a sheriff may be required to perform, he shall receive the fees herein allowed for similar services.

(G. S. 1866, c. 70, § 10, as amended 1878, c. 8, § 1; G. S. 1878, c. 70, § 11.)

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

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

A sheriff or constable is entitled to mileage for traveling to serve a criminal warrant, although he fails to serve it, he being free from fault. *Davis v. Board of County Commissioners*, 37 Minn. 491, 35 N. W. Rep. 364.

See *Barnum v. Miller*, 23 Minn. 458; *Coykendall v. Way*, 29 Minn. 162, 163, 13 N. W. Rep. 452.

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

Where a sheriff levies an execution, and sells the property, and the execution creditor is the purchaser, it is a collection of the amount bid, within the meaning of the provision allowing sheriffs a percentage for collections on executions. *Sharvey v. Central Vermillion Iron Co.* (Minn.) 53 N. W. Rep. 864.

### § 5551. In Dakota county.

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

(Sp. Laws 1887, c. 394, § 8; G. S. 1878, v. 2, c. 70, § 12d.)

See, as to compensation for board of prisoners, § 7427.

\* See note to § 5541.

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## § 5552. In Hennepin county.

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

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

Traveling in making any service on any writ or summons, eight cents per mile for going and returning, to be computed from the place where the court is usually held.

Taking and approving a bond, fifty cents.

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

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

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

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

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

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

Posting three notices for such sale, one dollar.

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

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

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

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

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

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

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

Boarding and washing for prisoners, three dollars and twenty-five cents per week.\*

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

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

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

Making and drafting an inventory of property levied upon, replevied or at-

\*See, also, § 7427, last proviso.

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tached, twenty-five cents for each folio, and for each copy of said inventory, ten cents per folio.

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

Receiving and paying over the money paid on redemption of property, and executing certificate therefor, one per cent of the amount so received and paid, up to one thousand dollars and one-half per cent on all amounts received and paid in excess of said sum, to be collected from the person redeeming such property, but not to exceed in any one case twenty-five dollars.

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

The county commissioners of each of said counties shall allow the sheriff of their respective counties the sum of six hundred dollars per annum, as compensation for a watchman or turnkey of the jail; but all bailiffs, deputy sheriff attending upon courts, shall be furnished by such sheriff.

The food furnished persons shall be of good substantial quality, and of the variety needed for health, and as shall be regulated by the county commissioners.

(Sp. Laws 1891, c. 373, § 3.)

By Sp. Laws 1891, c. 373, § 4, "the fees charged for services \* \* \* shall remain as at present, except as herein provided."

By Id. § 7, "all acts or parts of acts which conflict with any of the foregoing provisions are hereby repealed."

By Id. § 8, "this act is hereby declared a public act and may be read in evidence in any court of law in this state without proof."

## § 5553. In Ramsey county.

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

For serving a summons or any process issued by a court of law, one dollar for the first defendant served, and fifty cents for each additional, and he shall receive the same fees for the services required in serving, or attempting to serve, the notice on the person in possession of mortgaged premises in the foreclosure of a mortgage by advertisement that he is authorized to receive in serving or attempting to serve, a summons.

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

Taking and approving a bond, fifty cents.

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

Copy of every summons or other paper served by the sheriff, when such copy is made by him, ten cents per folio. Collections on executions, when collected without levy, or, when levied upon personal property, when the same is collected or settled after levy, at the rate of four per centum upon the first two hundred and fifty dollars, and two per centum upon the excess of said sum.

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

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

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

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

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

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

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

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

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

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

Attending court, two dollars and fifty cents per day for each deputy or bailiff required and ordered by the district court of said Ramsey county, or any judge thereof, to be in attendance upon said court or judge during any trial or hearing, and three dollars per day for each deputy required and ordered by any judge of said court for attendance upon the grand jury. Said order, to be valid, shall be entered upon the minutes of the court, and it shall specify the name of the judge making the order; and if the deputy is ordered for attendance upon the grand jury, said order shall so specify; and if the deputy or bailiff is ordered for attendance upon the judge during any trial or hearing, said order shall so specify. In case said sheriff performs any of said services, he shall be entitled for his services to the same compensation that he would receive had a deputy or bailiff performed said services. Said sheriff shall be entitled to a certificate from the clerk of said court, directed to the auditor of said county, for the compensation for services named and ordered under this provision of this act; and said certificate shall specify the name of each person doing the services and the day of the week, month and year on which said services were rendered; and said certificate to be valid shall be countersigned and indorsed by one of the judges of said district court as being just, true and correct. Said auditor, upon said certificate being presented, shall take up, preserve and file the same and issue a warrant, under his seal, directed to the county treasurer, for the payment of the amount named therein; and said warrant shall specify in substance the matters set forth in said certificate. Upon the presentation of said warrant to the treasurer of said county, he shall pay the same. Said warrant shall be drawn in favor of said sheriff or to his order, and shall be indorsed by the person who may present the same for payment before the same is paid, and said treasurer shall be responsible for the validity or genuineness of any indorsement thereon.

Boarding prisoners, three  $\frac{25}{100}$  dollars per week, including washing.\*

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

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

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

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

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

Receiving and paying over the money paid on redemption of property, and executing certificate therefor, one per cent. of the amount so received and

\* See, also, § 7427, last proviso.



paid, to be collected from the person redeeming such property, but not exceeding in any one case fifty dollars.

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

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

The food furnished persons shall be of good substantial quantity and of the variety needed for health, and as shall be regulated by the county commissioners.

(Sp. Laws 1887, c. 363, § 7, as amended Sp. Laws 1891, c. 426, §§ 2, 3.)

By Sp. Laws 1887, c. 363, § 9, "any and all acts and parts of acts and all laws of the state, whether special or general, contravening or inconsistent with the provisions of this act be and the same are hereby repealed."

(8) FEES OF CORONERS.

§ 5554. In general—Inquests—Allowance to physicians.

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

(G. S. 1866, c. 70, § 11, as amended 1873, c. 46, § 1; G. S. 1873, c. 70, § 13; 1887, c. 89.)

(9) FEES OF CONSTABLES.

§ 5555. Schedule.

Constables shall receive the following fees:

For serving a warrant or other writ, not herein provided for, on each person named therein, twenty-five cents.

For a copy of every summons delivered on request, or left at the place of residence of defendant, fifteen cents.

Serving a subpoena or summons, on each party or name therein, fifteen cents.

Serving an attachment, fifty cents.

Each copy of an attachment, fifteen cents.

Each copy of inventory of property seized on attachment, fifteen cents.

Serving summons on garnishee, fifty cents.

Copy of any affidavit or other paper not otherwise enumerated, per folio, ten cents.

Posting each notice, fifteen cents.

Attending on justice's court, when required by the justice, one dollar per day.

Serving any process or paper authorized to be served by them, for travel, ten cents per mile, both going to and returning from the place of service.

Committing to prison, fifty cents.

Summoning a jury, one dollar.

Writing a list of jurors, fifteen cents.

Attending on a jury, fifty cents.

On all sums made on execution and paid over, charged upon the defendant, five per cent.

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Serving every writ of replevin, fifty cents.

Summoning and swearing appraisers, and taking appraisement, fifty cents.

Taking and approving security in any case, twenty-five cents.

(G. S. 1866, c. 70, § 12; G. S. 1878, c. 70, § 14.)

A constable is entitled to mileage for traveling to serve a criminal warrant, though, without his fault, he fails to serve it. *Davis v. County of Le Sueur*, 37 Minn. 491, 35 N. W. Rep. 364.

## § 5556. Fees of other persons for same services.

When the services mentioned in the last section are performed by the sheriff or any other person, the same fees shall be allowed that constables are entitled to receive.

(G. S. 1866, c. 70, § 13; G. S. 1878, c. 70, § 15.)

### (10) FEES OF NOTARIES PUBLIC.

## § 5557. Schedule.

For drawing and copy of protest of the non-payment of a promissory note, or bill of exchange, or of the non-acceptance of such bill, one dollar, in the cases where by law such protest is necessary.

For drawing and a copy of every other protest, fifty cents.

For drawing, copy and serving every notice of non-payment of note, or non-acceptance of a bill, fifty cents.

Drawing any affidavit, or other paper or proceeding, for which provision is not herein made, twenty cents for each folio; and copying the same, six cents for each folio.

For each oath administered, twenty-five cents.

Taking the acknowledgment of deeds and for other services authorized by law, the same fees as are allowed to other officers for similar services.

Recording each instrument required by law to be recorded by him, ten cents per folio.

(G. S. 1866, c. 70, § 14; G. S. 1878, c. 70, § 16.)

### (11) FEES OF JUSTICES OF THE PEACE.

## § 5558. Schedule.

Justices of the peace shall receive the following fees and may tax the same in all cases where applicable:

For a summons, warrant or subpoena, twenty-five cents.

For a venire for a jury, twenty-five cents.

For a warrant in a criminal case, twenty-five cents.

Taking a recognizance of bail, twenty-five cents.

Administering an oath, fifteen cents.

Certifying the same, when administered out of court, fifteen cents.

For a writ of attachment, twenty-five cents.

Entering a judgment, twenty-five cents.

Every adjournment, fifteen cents.

Every bond, recognizance or security, directed by law to be taken and approved by the justice, twenty-five cents.

Swearing a jury, twenty-five cents.

Taking an examination, deposition or confession, per folio, fifteen cents.

For copy of proceedings, or of any paper or examination in any case, when demanded, per folio, fifteen cents.

Entering a satisfaction of judgment, twenty-five cents.

Issuing commission to take testimony, fifty cents.

Entering any order, or exceptions thereto, fifteen cents.

Entering amicable suit without process, twenty-five cents.

For a transcript of judgment, twenty-five cents.

Opening a judgment for rehearing, twenty-five cents.

Filing every paper required to be filed, five cents.

Issuing notice to take deposition, twenty-five cents.

Taking recognizance, certifying oath or affidavit, and making return to an appeal, including travel, two dollars.

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For a search warrant, twenty-five cents.

For every affidavit or other paper drawn by the justice, for which no other allowance is made by law, per folio, fifteen cents.

For a commitment to jail, twenty-five cents.

For an order to bring up prisoner, twenty-five cents.

For an order to discharge prisoner, issued to jailor, twenty-five cents.

Discharging a prisoner, after a hearing on motion to discharge, fifteen cents.

For an execution, twenty-five cents.

For every other writ not herein enumerated, twenty-five cents.

Taxing costs, fifteen cents.

For marrying, and making return thereof, one dollar and fifty cents, and such other sum as may be allowed by the party making the application.

Holding an inquisition, in cases of forcible entry and detainer, in addition to other fees, one dollar.

Taking and certifying the acknowledgment of a deed, for each grantor named therein, twenty-five cents.

For travelling to perform any duty, when not otherwise provided for, and such travel is necessary, going and returning, per mile, ten cents.

(G. S. 1866, c. 70, § 15, as amended 1867, c. 89, § 1; G. S. 1878, c. 70, § 17.)

## (12) PROVISIONS IN RELATION TO FEES IN JUSTICES' COURTS.

### § 5559. Costs to prevailing party.

In all civil actions, unless otherwise provided, the party in whose favor judgment is given shall recover costs.

(G. S. 1866, c. 70, § 16; G. S. 1878, c. 70, § 18.)

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

Payment of the costs and fee for making the return are essential conditions to the jurisdiction of a justice to allow an appeal. *Trigg v. Larson*, 10 Minn. 220, (Gil. 175.)  
See *Clague v. Hodgson*, 16 Minn. 329, (Gil. 291, 296.)

### § 5560. Justice may tax costs without notice.

At the time of entering a judgment for costs, in any case, the justice may proceed to tax the costs; and no notice of such taxing need be given to the party against whom judgment is rendered.

(G. S. 1866, c. 70, § 17; G. S. 1878, c. 70, § 19.)

### § 5561. Fees for travel of witnesses.

The justice shall allow no fees for the travel of witnesses, unless the same is proved by the oath of some person qualified to testify in the action.

(G. S. 1866, c. 70, § 18; G. S. 1878, c. 70, § 20.)

### § 5562. Fees for travel in serving subpoena.

No fees shall be allowed for travel in serving a subpoena, unless the same is charged by a constable or sheriff, or is proved by the oath of the person who served the same.

(G. S. 1866, c. 70, § 19; G. S. 1878, c. 70, § 21.)

### § 5563. Fees of only two witnesses to same fact.

The attendance of only two witnesses to each particular fact before a justice of the peace shall be taxed in the bill of cost.

(G. S. 1866, c. 70, § 20; G. S. 1878, c. 70, § 22.)

### § 5564. Fees for copies not allowed unless used.

Nor fees for copies or exemplifications of documents or papers, or for depositions, shall be allowed, unless such copies of depositions were used upon the trial.

(G. S. 1866, c. 70, § 21; G. S. 1878, c. 70, § 23.)

### § 5565. Items of disbursements to be specified, etc.

No allowance for disbursements, except to officers, shall be allowed, unless the items are particularly specified, and proved to the justice, and the same were, in the opinion of the justice, necessary, and reasonable in amount.

(G. S. 1866, c. 70, § 22; G. S. 1878, c. 70, § 24.)

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OF REGISTER OF DEEDS.

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## § 5566. Justice to hear evidence as to charges.

The justice shall hear any evidence which may be offered to him, to prove that any charge is unreasonable, or that the service has not been rendered.

(G. S. 1866, c. 70, § 23; G. S. 1878, c. 70, § 25.)

### (13) FEES OF REGISTER OF DEEDS.<sup>4</sup>

## § 5567. Schedule.

For entering or recording any deed or other instrument, ten cents for each folio, to be paid when the same is left for record.

For every certificate, ten cents.

For copies of any records or papers, when required, ten cents for each folio.

For translations for record and recording any deed or other paper coming from a foreign country, in any other than the English language, twenty-five cents per folio.

Every entry of a discharge of mortgage, ten cents.

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

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

Searching the record, ten cents.

For an abstract of title, twenty-five cents for every transfer, and twenty-five cents for his certificate.

(G. S. 1866, c. 70, § 24, as amended 1877, c. 120, § 4; G. S. 1878, c. 70, § 26.)

See § 5539.

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

## § 5568. In counties where compensation is \$800 or less.

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

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

Every certificate, twenty-five cents.

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

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

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

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

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

Searching record, ten cents.

For an abstract of title, twenty-five cents for every transfer, and fifty cents for his certificate.

(1881, c. 120, § 2; G. S. 1878, v. 2, c. 70, § 26a.)

## § 5569. In Dakota county.

The fees of the register of deeds of the said county shall be the same as now provided by law, except that the said officer shall charge, for entering or recording any deed or other instrument, seven and one-half cents for each folio, to be paid when the same is left for record, and no more. It shall, however, be the duty of the said register of deeds to record, without charge, to the said county of Dakota, or to any of the county officers of said county, the official bonds of such county officers; and it shall also be the duty of such

<sup>4</sup> Sp. Laws 1876, c. 207, § 4, as amended by Sp. Laws 1873, c. 82, § 1 (G. S. 1878, c. 70, § 27), repealed as to Hennepin county by Sp. Laws 1881, c. 408, § 5, and as to Ramsey county by Sp. Laws 1887, c. 363, §§ 5, 9.

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register of deeds to prepare and furnish the list of mortgages and real-estate securities as provided by section twenty-nine of chapter eleven of the General Statutes of one thousand eight hundred and seventy-eight, without making any charge therefor to the said county; and the said officer is further required to furnish his own stationery and postage at his own expense.

(Sp. Laws 1887, c. 394, § 7; G. S. 1878, v. 2, c. 70, § 27c.)

## § 5570. In Hennepin county.

The salary of the register of deeds of Hennepin county, state of Minnesota, shall be four thousand dollars per annum.

(Sp. Laws 1891, c. 373, § 1.)

Sp. Laws 1891, c. 373, § 4, provides as follows: "The above named salaries shall be in full compensation for all services rendered by the above named respective officers in their official capacity. The fees charged for services, and the prices charged for filing all papers and instruments in said several offices shall remain as at present, except as herein provided."

## § 5571. In Ramsey county.

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

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

For every certificate, ten cents.

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

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

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

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

And in consideration of the fees aforesaid, it is hereby made the duty of the county register of deeds of said county to furnish free of charge, according to the records in his office, to the county auditor, a list of all mortgages or other real-estate securities held, owned, or controlled by the residents of said county, showing the names of the owners or agents alphabetically arranged, and the amounts due on each separate instrument. Such list shall be made out and delivered, duly certified, to the county auditor, within and at the time prescribed and required by the general laws of the state in relation to taxes.

(Sp. Laws 1887, c. 363, § 5; G. S. 1878, v. 2, c. 70, § 27a.)

### (14) FEES OF REFEREES.

## § 5572. In general—Agreement for other compensation.

The fees of referees are five dollars to each, for every day spent in the business of the reference; but the parties may agree, in writing, upon any other rate of compensation, and thereupon such rate shall be allowed.

(G. S. 1866, c. 70, § 25; G. S. 1878, c. 70, § 28.)

### (15) FEES OF APPRAISERS, COMMISSIONERS, AND OTHERS.

## § 5573. Per diem and mileage.

All appraisers of estates of deceased persons, appraisers of property taken on writ of attachment or replevin, persons appointed under a legal process or order for assigning dower, or making a partition of real estate, sheriff's aids in criminal cases, and all other private persons performing any other like service required by law, or in the execution of legal process, where no express provision is made for compensation therefor, shall be entitled to one dollar

<sup>6</sup> See note to § 5541.

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for each day for their services, and five cents a mile for travel in going and returning.

(G. S. 1866, c. 70, § 26; G. S. 1878, c. 70, § 29.)

For per diem and mileage of appraisers appointed by the probate court, see § 4725.

## (16) FEES OF JURORS.

### § 5574. Grand and petit jurors—Before coroner, justice, etc.—Ramsey, Hennepin, and St. Louis counties excepted.

Each grand and petit juror shall be entitled to two dollars for each day's attendance upon any district court, and ten cents for each mile traveled in going to and returning from the said court, the distance to be computed by the usual traveled route, and paid out of the county treasury of the county in which the service was so rendered.

The clerk of the district court shall deliver to each juror a certificate for the number of days' attendance and miles traveled for which he is entitled to receive compensation.

Each juror sworn before any coroner, or any inquest taken by him, is entitled to one dollar for each day's attendance on such inquest, and ten cents for each mile traveled in going to and returning from the place of holding the same, the distance to be computed by the usual traveled route, and paid out of the county treasury of the county in which the service was rendered. The coroner shall deliver to each juror a certificate for the number of days' attendance and miles traveled for which he is entitled to receive compensation.

Each juror sworn in any action pending in a justice court or before any sheriff on a writ of inquiry is entitled to one dollar, to be paid in the first instance in all civil actions by the party requiring such jurors.

Provided, That the certificate of the clerk for services rendered as such juror in the district court, or by the coroner, shall be filed with the county auditor, who shall at once thereafter issue his warrant on the treasurer of his county for the amount due, which certificate shall be a proper and sufficient voucher for the issuance of said warrant.

Provided, further, That the provisions of this act shall not apply to the counties of Ramsey, Hennepin and St. Louis.

(G. S. 1866, c. 70, § 27, as amended 1870, c. 80, § 1; G. S. 1878, c. 70, § 30; 1891, c. 83, § 1.)

By Laws 1891, c. 83, § 2, all inconsistent acts are repealed.

In justice's court, if the party calling for a jury refuses to pay the jurors' fees in advance, the justice may try the case without a jury. *Rollins v. Nolting*, 53 Minn. 292, 54 N. W. Rep. 1118.

See *Board of Com'rs of Ramsey Co. v. Nelson*, 51 Minn. 79, 52 N. W. Rep. 991.

### § 5575. Same—In Hennepin county.

That each grand and petit juror shall receive the sum of two dollars for each day's service as such juror and ten cents for each mile traveled in going to and returning from said court, the distance to be computed by the usual traveled route, to be paid by the county treasurer upon the certificate of the clerk of said district court.

(Sp. Laws 1885, c. 294, § 8, as amended Sp. Laws 1887, c. 97, § 3.)

See § 5618.

### § 5576. Same—In Ramsey county.

That each grand and petit juror shall receive the sum of one dollar for each day's service as such and no more, to be paid by the county treasurer, upon the certificate of the clerk of said district court. That persons summoned and attending as jurors actually residing beyond the limits of the city of St. Paul may be allowed at the rate of one dollar and fifty cents per day for such service, but no mileage shall in any case be allowed.

(Sp. Laws 1876, c. 214, § 6.)

See § 5626.

See, also, Sp. Laws 1891, c. 433, as to compensation of jurors excused from service.

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**§ 5577. Same—Payment of fees in Hennepin and Ramsey counties—Juror's certificate.**

Any person who serves as a juror or as a witness in any district court of this state, for which service the county in which said court is sitting is liable, shall be entitled to a certificate from the clerk of said court, which certificate shall, among other things, state the full name of said juror or said witness, and the name of each day of the week, month and year for which he is entitled to receive pay and the amount he is entitled to receive, and all the dates and amounts shall be designated in both words and figures; and said certificate shall be countersigned by a judge of said district to the effect that the same is just and correct, and said certificate shall be directed to the county auditor of the county out of the treasury of which said juror or witness is to be paid. At the time said juror or witness receives said certificate from said clerk, he shall give said clerk a receipt therefor, which receipt shall be preserved in the office of said clerk.

(1891, c. 33, § 1.º)

**§ 5578. Same—Auditor's warrant.**

Said certificate shall be delivered to the county auditor of said county, and upon the receipt of the same said auditor shall preserve, file and keep a record of said certificate, and shall issue in the name of the person named therein and to his order, under the seal of said auditor, a warrant on the treasurer of said county for the amount named therein, and said warrant shall state in substance the contents of said certificate issued by said clerk as aforesaid. Said certificate and said warrant shall contain no unfilled blanks.

(Id. § 2.)

**§ 5579. Same—Payment—Application of act.**

Upon the presentation of said warrant to the treasurer of said county the same shall be paid out of any county funds applicable for the payment thereof, and the county treasurer of said county shall be responsible for the validity and genuineness of any indorsement found upon said certificate, unless the same is paid directly to the person named therein, and said treasurer shall not pay said warrant until the person named therein and also the person presenting the same for payment has indorsed his name upon the back thereof. Provided, That the provisions of this act shall only apply to the counties of Hennepin and Ramsey.

(Id. § 3.)

**§ 5580. Construction of act.**

This act shall not be construed to change in any manner any law of this state fixing the amount of fees to be paid any juror or witness.

(Id. § 4.)

(17) FEES OF PRINTER.

**§ 5581. Rate per folio—Term defined.**

For publishing any notice, or any order citation, summons, or any other proceeding or advertisement, required by law to be published in any newspaper, not more than seventy-five cents per folio for the first insertion, and thirty-five cents per folio for each insertion after the first; and for the purpose of computing the same, a folio is hereby declared to be equal to the space occupied by two hundred and fifty ems of solid matter of the kind of type used.

(G. S. 1866, c. 70, § 28, as amended 1869, c. 80, § 1; G. S. 1878, c. 70, § 31.)  
Meaning of "folio," "ems," and "solid matter." *Hobe v. Swift* (Minn.) 59 N. W. Rep. 831.

(18) FEES OF COURT COMMISSIONERS.

**§ 5582. Schedule of fees.**

Court commissioners, for services mentioned in this act, shall be allowed the following fees:

<sup>a</sup>An act to regulate the payment of fees to jurors and witnesses out of county funds. Approved April 16, 1891.

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For examining any petition, complaint, affidavit, or other paper wherein an order is required, one dollar.

For making and entering an order on the same, fifty cents.

For taking bail, or approving sureties on any bond or recognizance, fifty cents.

For hearing and deciding on the return of a writ of habeas corpus, three dollars for each day necessarily occupied in the hearing of the same.

For all other services rendered by them, the same fees as allowed by law to other officers for similar services.

(1868, c. 97, § 1; G. S. 1878, c. 70, § 32.)

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### § 5583. Officers to set up table of fees—Penalty for neglect.

Every officer whose fees are herein fixed, shall publish and set up in his office, fair tables of his fees, according to this chapter, in some conspicuous place, for the inspection of all persons who have business in such office, upon pain of forfeiting, for each day the same shall not be put up through such officer's neglect, a sum not exceeding two dollars, which may be recovered by a civil action, in the name of any person, before any justice of the peace of the same county.

(G. S. 1866, c. 70, § 29; G. S. 1878, c. 70, § 33.)

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

### § 5584. Taking of illegal fees forbidden.

No judge, justice, sheriff, or other officer whatever, or other person to whom any fees or compensation is allowed by law for any service, shall take or receive any other greater fee or reward for such service than is allowed by the laws of this state.

(G. S. 1866, c. 70, § 30; G. S. 1878, c. 70, § 34.)

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

Upon information to a deputy-sheriff that a person within his county has committed a felony in another county, which felony has in fact been committed, it is his duty as a peace-officer, if he has reasonable cause to believe and does believe the information to be true, to arrest such person, though he have no warrant, and for making such arrest he is entitled to the same fees as though made on a warrant, but is not entitled to any reward offered for the arrest of such person. *Id.*

### § 5585. No fees for services not actually performed.

No fee or compensation allowed by law shall be demanded or received by any officer or person, for any service, unless such service was actually rendered by him, except in the case of prospective costs hereinafter specified.

(G. S. 1866, c. 70, § 31; G. S. 1878, c. 70, § 35.)

### § 5586. Penalty for violation of last two sections.

A violation of either of the last two sections is a misdemeanor; and the person guilty thereof shall be liable to the party aggrieved for treble the damages sustained by him.

(G. S. 1866, c. 70, § 32; G. S. 1878, c. 70, § 36.)

### § 5587. Fees not to be taxed for services not rendered.

No fees shall be taxed for services as having been rendered by any clerk, sheriff, or other officer, in the progress of a cause, unless such service was actually rendered, except when otherwise expressly provided.

(G. S. 1866, c. 70, § 33; G. S. 1878, c. 70, § 37.)

### § 5588. Taxation of prospective costs.

In entering any judgment or decree, no prospective costs shall be taxed or included therein, except for docketing the same, unless the party demanding such judgment or decree shall require the costs of an execution or transcript

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of the judgment to be taxed and included therein, in which case the same shall be so taxed and included.

(G. S. 1866, c. 70, § 34, as amended 1877, c. 33, § 1; G. S. 1878, c. 70, § 38.)

**§ 5589. Fees for copies of papers may be taxed, when.**

The legal fees paid for certified copies of the depositions of witnesses filed in any clerk's office, and of any documents or papers recorded or filed in any public office, necessarily used on the trial of a cause, or on the assessment of damages, shall be allowed in the taxation of costs.

(G. S. 1866, c. 70, § 35; G. S. 1878, c. 70, § 39.)

**§ 5590. Attorney not entitled to witness' fees.**

No attorney or counsel in any cause shall be allowed any fee for attending as a witness in such cause.

(G. S. 1866, c. 70, § 36; G. S. 1878, c. 70, § 40.)

See *Barry v. McGrade*, 14 Minn. 286, (Gil. 214); *Thomas v. County Com'rs*, 15 Minn. 324, (Gil. 254.)

**§ 5591. Officer to give account of fees, if required—Penalty for failure.**

Every officer, upon receiving any fees for any official duty or service, shall, if required by the person paying the same, make out in writing, and deliver to such person, a particular account of such fees, specifying for what they respectively accrued, and shall receipt the same; and if he refuses or neglects to do so, he shall be liable to the party paying the same for three times the amount so paid.

(G. S. 1866, c. 70, § 37; G. S. 1878, c. 70, § 41.)

**§ 5592. Officers performing same services, entitled to same fees.**

When a fee is allowed to one officer, the same fees shall be allowed to other officers for the performance of the same services, when such officers are by law authorized to perform such services.

(G. S. 1866, c. 70, § 38; G. S. 1878, c. 70, § 42.)

See *Davis v. County of Le Sueur*, 37 Minn. 491, 35 N. W. Rep. 364.

**§ 5593. Allowance to witness for state in criminal case.**

When any person shall attend a court of record as a witness in behalf of the state of Minnesota, upon request of the public prosecutor, or upon a subpoena, or by virtue of a recognizance for that purpose, and it appears that such person has come from any other state or territory of the United States, or from any foreign country, or that such person is poor, the court may, by order on its minutes, direct the county treasurer of the county in which the court shall be sitting, to pay to such witness such sum of money as shall seem reasonable for expenses.

(G. S. 1866, c. 70, § 39; G. S. 1878, c. 70, § 43.)

**§ 5594. Fees of prosecution paid out of county treasury, when.**

When any prosecution, instituted in the name of this state, for breaking any law thereof, fails, or when the defendant proves insolvent or escapes, or is unable to pay the fees, when convicted, the fees shall be paid out of the county treasury, unless otherwise ordered by the court.

(G. S. 1866, c. 70, § 40; G. S. 1878, c. 70, § 44.)

The county is not liable for officer's fees for service of subpoenas for the defendant in an unsuccessful prosecution in a justice court. *Hendershott v. County of Fillmore*, 45 Minn. 281, 47 N. W. Rep. 810.

See *Dean v. Board of Com'rs of Renville Co.*, 50 Minn. 232, 52 N. W. Rep. 650.

**§ 5595. Witnesses to attend without prepayment of fees, when.**

The attorney general, or county attorney in each county, is authorized to issue subpoenas, and compel the attendance of witnesses, on behalf of the state

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or county, without paying or tendering fees in advance; and, in criminal cases, the witnesses for the defendant shall also be compelled to attend without payment or tender of fees in advance; and any witness failing or neglecting to attend, after being served with a subpoena, may be proceeded against, and shall be liable, in the same manner as provided by law in other cases where fees have been paid or tendered.

(G. S. 1866, c. 70, § 41; G. S. 1878, c. 70, § 45.)

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

**§ 5596. Same—Payment of witnesses for state.**

The clerk of any court at which any witness has attended on behalf of the state, in a civil action, shall give to such witness a certificate of travel and attendance, which shall entitle him to receive the amount from the treasurer of the county where the action arises.

(G. S. 1866, c. 70, § 42; G. S. 1878, c. 70, § 46.)

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