

THE 79
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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WITH ANNOTATIONS BY
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AND A GENERAL INDEX BY THE EDITORIAL STAFF OF THE NATIONAL
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CONTAINING THE CONSTITUTION OF THE UNITED STATES, THE ORDINANCE OF 1787,
THE ORGANIC ACT, ACT AUTHORIZING A STATE GOVERNMENT, THE STATE
CONSTITUTION, THE ACT OF ADMISSION INTO THE UNION, AND

Sections 1 to 4821 of the General Statutes

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CHAPTER 8.

COUNTIES AND COUNTY OFFICERS.

1. Territorial Divisions, §§ 535-620.
2. Organization, Powers, and Duties, §§ 621-656.
3. County Commissioners, §§ 657-706.
4. County Auditors, §§ 707-721.
5. County Treasurers, §§ 722-759.
6. Registers of Deeds, §§ 760-781.
7. Sheriffs, §§ 782-800.
8. County Attorneys, §§ 801-816.
9. Judges of Probate, §§ 817-822.
10. Court Commissioners, §§ 823-828.
11. County Surveyors, §§ 829-837.
12. Coroners, §§ 838-855.
13. Clerk of District Court, §§ 856-869.
14. Miscellaneous Provisions, §§ 870-890.

TITLE 1.

TERRITORIAL DIVISIONS.

§ 535. Names of counties.

The State is divided into the following counties: Aitkin, Anoka, Becker, [Beltrami], Benton, Big Stone, Blue Earth, Brown, Carlton, Carver, Cass, Chippewa, Chisago, Clay, [Cook], Cottonwood, Crow Wing, Dakota, Dodge, Douglas, Faribault, Fillmore, Freeborn, Goodhue, [Grant], Hennepin, Houston, Hubbard, Isanti, Itasca, Jackson, Kanabec, Kandiyohi, Kittson, Lac qui Parle, Lake, Le Sueur, Lincoln, [Lyon], [Marshall], Martin, McLeod, Meeker, Mille Lacs, Morrison, Mower, Murray, Nicollet, Noble, [Norman], Olmsted, Otter Tail, Pine, Pipe Stone, Polk, Pope, Ramsey, Red Wood, Renville, Rice, Rock, Saint Louis, Scott, Sherburne, Sibley, Stearns, Steele, Stevens, [Swift], Todd, Traverse, Wabasha, Wadena, Waseca, Washington, Watonwan, Wilkin, Winona, Wright, [Yellow Medicine].

535-620
95 - 298
73-NW 631

535-890
99 - 154

(G. S. 1866, c. 8, § 1; G. S. 1878, c. 8, § 1.)

The names in brackets do not appear in G. S. 1866.

The county of Aitkin is that called Aiken in G. S. 1866. The name was changed by Sp. Laws 1872, c. 145. See post, § 537.

The county of Wilkin is that called Andy Johnson in G. S. 1866. The name was changed by Laws 1863, c. 115. See post, § 533.

The county of Manomin, described in G. S. 1866, was abolished and its territory attached to Anoka county by constitutional amendment, adopted in 1869. See Const. art. 11, § 7.

The date of organization of each county organized since G. S. 1866 is given in the notes to the several counties.

§ 536. Aitkin county.

The county of Aiken (Aitkin) is established and bounded as follows: Beginning at the north-east corner of township fifty-two north, of range twenty-two west of the fourth principal meridian; thence southwardly, along the line between ranges twenty-one and twenty-two, to the south-east corner of township forty-three, of range twenty-two; thence westwardly, on the line between townships forty-two and forty-three, to the south-west corner of township forty-three of range twenty-four; thence northwardly, on the line between ranges twenty-four and twenty-five, to the south-west corner of township forty-four of range twenty-four; thence westwardly, on the line between townships forty-three and forty-four, to the south-west corner of township forty-four of range twenty-seven; thence northwardly, on the line between ranges twenty-seven and twenty-eight, to the centre of the channel of the Mississippi river; thence up the centre of said channel to its intersection

with the guide meridian between ranges twenty-seven west of the fourth principal meridian, and twenty-five west of the fifth principal meridian; thence northwardly, on said guide meridian, to the north-west corner of township fifty-two north; thence eastwardly, along the line between townships fifty-two and fifty-three north, to the place of beginning.

(1871, c. 96; G. S. 1878, c. 8, § 2.)

The county was organized by the act above cited.

By this act the former county of Aitkin received an addition of territory from Cass and Itasca counties.

Same—Additional territory.

That lot four of section thirteen, and the fractional sections twenty-four, twenty-five, and twenty-six, all in township one hundred and thirty-six north, of range twenty-five west of the fifth principal meridian, be, and the same are, each and all thereof, detached from the county of Cass, in this state, and attached to the county of Aitkin, in this state.

(1887, c. 117, § 1. Approved March 7, 1887.)

Transcript of records.

That the register of deeds of the county of Aitkin, shall, as soon as practicable, make, or cause to be made, transcripts of all records affecting the titles to the real property being and lying within the territory described in the first section of this act, at the expense of the county of Aitkin, and he shall record the same in the records of his office in and for said county, and when the same are so recorded, they shall have the same force and effect as if originally recorded in such records.

(Id. § 2.)

By Laws 1887, c. 118, approved February 18, 1887, the territory described in township 136, range 25 west of the 5th principal meridian, had been detached from Cass county, and annexed to Crow Wing county, and the proposed change was to be submitted to popular vote in Crow Wing county at the election of 1888. But § 3, c. 117, Laws 1887, repeals all inconsistent acts and parts of acts so far as relates to this territory.

§ 537. Same—Change of name.

That the name of Aiken county shall be and is hereby changed to Aitkin.

(Sp. Laws 1872, c. 145; G. S. 1878, c. 8, § 3.)

§ 538. Andy Johnson, name changed to Wilkin.

That the name of the county of Andy Johnson be and is hereby changed to that of Wilkin county, in the state of Minnesota.

(1868, c. 115, § 1; G. S. 1878, c. 8, § 4.)

§ 539. Same.

That the change of name shall in no way affect any rights, claims or immunities of any citizen or citizens of said state, or any other person or persons whomsoever; but said county shall proceed under the new precisely and in all respects as under the old name.

(1868, c. 115, § 2; G. S. 1878, c. 8, § 5.)

§ 540. Anoka county.

The county of Anoka is established and bounded as follows: Beginning at the south-east corner of township thirty-one of range twenty-two west of the fourth principal meridian; thence west, on the township line between townships thirty and thirty-one, to the centre of the main channel of the Mississippi river; thence up the main channel thereof to its intersection with the line between ranges twenty-five and twenty-six; thence north, along said range line, to the north-west corner of section thirty of township thirty-four of range twenty-five; thence easterly, on the section line, to the north-east corner of section twenty-five of township thirty-four of range twenty-two; thence southerly, on the line between ranges twenty-one and twenty-two, to the place of beginning.

(G. S. 1866, c. 8, § 4; G. S. 1878, c. 8, § 6.)

Manomin county.

The county of Manomin is established and bounded as follows: Beginning in the middle of the channel of the Mississippi river at its intersection with the line between townships twenty-nine and thirty north, of range twenty-

four west from the fourth meridian; thence east, on said township line, to the south-east corner of town thirty of range twenty-four; thence north, on the east line of said town, to the north-east corner thereof; thence west, on the north line of said town, to the centre of the channel of the Mississippi river; thence down the middle of said channel to the place of beginning.

(G. S. 1866, c. 8, § 36; G. S. 1878, c. 8, § 6.)

The county of Manomin was abolished and its territory annexed to Anoka county by an amendment to the constitution, adopted in 1869. See Const. art. 11, § 7.

§ 541. Becker county.

The county of Becker is established and bounded as follows: Beginning at the north-west corner of township one hundred and forty-two, range forty-three; thence eastwardly, along the line between townships one hundred and forty-two and one hundred and forty-three, to the north-east corner of township one hundred and forty-two, range thirty-six; thence southwardly, along the line between ranges thirty-five and thirty-six, to the south-east corner of township one hundred and thirty-eight, range thirty-six; thence westwardly, along the line between townships one hundred and thirty-seven and one hundred and thirty-eight, to the south-west corner of township one hundred and thirty-eight, range forty-three; thence northwardly, along the line between ranges forty-three and forty-four, to the place of beginning.

(G. S. 1866, c. 8, § 5; G. S. 1878, c. 8, § 7.)

This county was organized by Sp. Laws 1871, c. 100.

§ 542. Beltrami county.

That so much territory as is comprised within the following-described limits, coincident with lines of the United States land surveys when run and marked, be, and the same is hereby, established as the county of Beltrami: Beginning at the point where the line between ranges thirty-eight and thirty-nine intersects the line between townships one hundred and forty-two and one hundred and forty-three; thence northwardly on said range line to the boundary line between the United States and British possessions; thence eastwardly and along said boundary line to its intersection with the line between ranges twenty-nine and thirty; thence southwardly on said range line to the southeast corner of township one hundred and forty-six, range thirty; thence westwardly along said town line to the southeast corner of township one hundred and forty-six, range thirty-six; thence south on the range line between ranges thirty-five and thirty-six to the northeast corner of township one hundred and forty-two, range thirty-six; thence westwardly along said town line between township one hundred and forty-two and one hundred and forty-three, to the southwest corner of town one hundred and forty-three, range thirty-eight, being the place of beginning.

(G. S. 1866, c. 46, § 1; G. S. 1878, c. 8, § 8; as amended 1879, c. 10, § 1; 1889, c. 75, § 1.)

This county is not organized.

§ 8, c. 8, G. S. 1878 (which was superseded by the foregoing section), was amended by Laws 1889, c. 75.

This amendment makes no reference to the act of 1879. The effect of this amendment was to attach to Beltrami county certain territory of Cass county, and to attach to Cass county that part of town 145, range 35, lying west of the Mississippi river. By Laws 1887, c. 119, it is provided that the county line of an unorganized county shall not be changed without submitting the proposition for such change of line to popular vote of the counties to be affected thereby. There is no reference in Laws 1889, c. 75, to this act of 1887; and there was no submission of the proposed change to popular vote.

§ 543. Benton county.

The county of Benton is established and bounded as follows: Beginning in the centre of the main channel of the Mississippi river, at the point where the line between townships thirty-eight and thirty-nine north of the fourth principal meridian intersects the same; thence to and along said township line to the north-west* corner of township thirty-eight of range twenty-eight; thence southerly, on the line between ranges twenty-seven and twenty-eight,

*Of necessity this must be the north-east corner, and not the north-west corner, as printed in G. S. 1866.

MINNESOTA STATUTES 1894

§§ 543-545

COUNTIES AND COUNTY OFFICERS.

[Ch. 8

to the south-east corner of township thirty-six of range twenty-eight; thence west, on the township line between townships thirty-five and thirty-six, to the centre of the main channel of the Mississippi river; thence up and along said channel to the place of beginning.

(G. S. 1866, c. 8, § 6; G. S. 1878, c. 8, § 9.)

§ 544. Big Stone county.

The county of Big Stone is established and bounded as follows: Beginning at the point where the line between townships one hundred and twenty-four and one hundred and twenty-five north of the fifth principal meridian intersects* [if extended west of the Minnesota river would intersect] the western boundary of the state; thence eastwardly, on said township line, to the north-east corner of township one hundred and twenty-four of range forty-four; thence southerly, on the line between ranges forty-three and forty-four, to its intersection with the channel of the Minnesota river; thence up the main channel of said river, to Big Stone lake; thence, through said lake and along the western boundary of the state, to the place of beginning.

(G. S. 1866, c. 8, § 7; G. S. 1878, c. 8, § 10.)

By Laws 1868, c. 109, § 1, townships 123 and 124 of range 44 were transferred from Big Stone county to Stevens county. By § 3 of that act, Traverse county was so bounded as to include the two northern tiers of townships in Big Stone county, which would leave to Big Stone county less than 400 square miles, while without the territory thus taken from Big Stone county Traverse county would contain less than that number of square miles. That section, being repugnant to art. 11, § 1, of the constitution, appears to have been inoperative, and the present limits of Big Stone county remain as defined in the following act of 1876.

Same—Present boundaries.

The boundaries of Big Stone county are hereby defined and declared to be as follows: Beginning at the point where the line between townships one hundred and twenty-four and one hundred and twenty-five north of the fifth principal meridian intersects* [if extended west of the Minnesota river would intersect] the western boundary of the state; thence eastwardly on said township line to the north-east corner of township one hundred and twenty-four of range forty-five; thence south to the south-east corner of township one hundred and twenty-three of range forty-five; thence east to the north-east corner of township one hundred and twenty-two of range forty-four; thence south on the line between ranges forty-four and forty-three to the intersection of the Minnesota river; thence up the main channel of said river to Big Stone lake; thence through said lake, and along the western boundary of the state, to the place of beginning; and all the land and territory embraced within such boundaries is hereby declared to be and to constitute the county of Big Stone. All acts and parts of acts inconsistent with this act are hereby repealed.

(Sp. Laws 1876, c. 159; G. S. 1878, c. 8, § 10.)

*By Laws 1893, c. 173, the words in brackets are inserted in place of the word "intersects" where it appears in the third line of "section 10, chapter 8, General Statutes for the year 1878." The word "intersects" occurs in the fourth and fourteenth lines of the section as printed in G. S. 1878, but does not occur in the third line.

This county was declared to be an organized county by Laws 1881, c. 106.

See State v. Parker, 25 Minn. 215.

§ 545. Blue Earth county.

The county of Blue Earth is established and bounded as follows: Beginning at the south-east corner of township one hundred and five north of range twenty-five west from the fifth principal meridian; thence westerly on the line between townships one hundred and four and one hundred and five to the south-west corner of township one hundred and five of range twenty-nine; thence northerly on the line between ranges twenty-nine and thirty to the centre of the main channel of the Minnesota river; thence down said main channel to its intersection with the section line between sections thirteen and twenty-four of township one hundred and nine of range twenty-seven; thence east along the section line to the north-east corner of section twenty-four of township one hundred and nine of range twenty-five; thence

south on the range line between ranges twenty-four and twenty-five to the place of beginning.

(G. S. 1866, c. 8, § 8; G. S. 1878, c. 8, § 11.)

See Foster v. Com'rs Blue Earth Co., 7 Minn. 140, (Gil. 92;) Village of Mankato v. Meagher, 17 Minn. 265, (Gil. 243.)

§ 546. Brown county.

The county of Brown is established and bounded as follows: Beginning at the intersection of the Minnesota river, and the range line between ranges twenty-nine and thirty; thence south, on said line, to the township line between townships one hundred and seven and one hundred and eight; thence west, on said line, to the range line between ranges thirty-three and thirty-four; thence north, on said line, to the middle of the Minnesota river; thence south-easterly, along the middle of the main channel of the Minnesota river, to the place of beginning.

(G. S. 1866, c. 8, § 9; G. S. 1878, c. 8, § 12.)

By Laws 1865, c. 71, fixing the boundaries of Brown, Cottonwood and Redwood counties, the first of these counties was thus bounded:

Same—Present boundaries.

The boundary line of Brown county is hereby established and shall hereafter be as follows: Beginning at the intersection of the middle line of the Minnesota river and the range line between ranges twenty-nine and thirty; thence in a northwesterly direction, on the middle line of the main channel of the Minnesota river, to the range line between ranges thirty-three and thirty-four; thence south, on said line to the township line between townships one hundred and nine and one hundred and ten; thence west on said line to the range line between ranges thirty-five and thirty-six; thence south on said line to the township line between townships one hundred and seven and one hundred and eight; thence east on said line to the range line between ranges twenty-nine and thirty; thence north on said line to the place of beginning.

(1865, c. 71, § 3; G. S. 1878, c. 8, § 12.)

This act having been duly ratified by popular vote, the boundaries thus fixed were the legal boundaries of the county at the time of the passage of G. S. 1866, c. 8. By section 9 of that chapter (supra), the county of Brown, as bounded in the act of 1865, was shorn of four townships, viz., townships 108 and 109 of ranges 34 and 35, town 108 of range 34 and town 108 of range 35 being added to Cottonwood county, and town 109 of range 34 and town 109 of range 35, being added to Redwood county. But as this section of the General Statutes, thus changing the lines of these counties, was not submitted to the popular vote, as required by Const. art. 11, § 1, in case of organized counties, it never became a law, and the boundaries of Brown county remain as established by the act of 1865.

§ 547. Carlton county.

The county of Carlton is established and bounded as follows: Beginning at the north-east corner of township forty-nine north, of range sixteen west from the fourth principal meridian; thence south, on the range line between ranges fifteen and sixteen; to its intersection with the main channel of the Saint Louis river; thence along the main channel of said river to the boundary line between Minnesota and Wisconsin; thence south, along said line between Minnesota and Wisconsin, to its intersection with the township line between townships forty-five and forty-six; thence westerly along said township line, to the south-west corner of township forty-six of range twenty-one; thence north, on the line between ranges twenty-one and twenty-two, to the north-west corner of township forty-nine of range twenty-one; thence easterly, on the line between townships forty-nine and fifty, to the place of beginning.

(G. S. 1866, c. 8, § 10; G. S. 1878, c. 8, § 13.)

This county was organized by Laws 1870, c. 96.

Proclamation by governor issued December 4, 1836, declaring change of county seat from Thomson to Northern Pacific Junction, approved by popular vote, pursuant to provisions of Laws 1835, c. 272.

§ 548. Carver county.

The county of Carver is established and bounded as follows: Beginning in the centre of the main channel of the Minnesota river at its intersection

with the line between ranges twenty-four and twenty-five; thence north, on said range line, to the south-east corner of section thirteen of township one hundred and fourteen north of range twenty-five west from the fifth meridian; thence west, on the section line, to the south-west corner of section eighteen in said township; thence north, on the west line of said township, to the north-west corner of said township; thence west, on the line between townships one hundred and fourteen and one hundred and fifteen, to the south-west corner of township one hundred and fifteen of range twenty-six; thence north, on the range line between ranges twenty-six and twenty-seven, to the north-west corner of town one hundred and seventeen of range twenty-six; thence east, on the line between townships one hundred and seventeen and one hundred and eighteen, to the north-east corner of town one hundred and seventeen of range twenty-five; thence south on the east line of said town to the south-east corner thereof; thence east, on the line between townships one hundred and sixteen and one hundred and seventeen, to the north-east corner of town one hundred and sixteen of range twenty-three; thence south, on the line between ranges twenty-two and twenty-three, to the centre of the main channel of the Minnesota river; thence up and along the centre of said channel to the place of beginning.

(G. S. 1866, c. 8, § 11; G. S. 1878, c. 8, § 14.)

549

§ 549. Cass county.

99 - 253

The county of Cass is established and bounded as follows: Beginning at the intersection of the main channel of the Crow Wing river with the main channel of the Mississippi river; thence up the centre of the main channel of said Crow Wing river to its first intersection with the range line between ranges thirty-two and thirty-three west from the fifth principal meridian; thence north, on said range line, to the north-east corner of township one hundred and thirty-eight of range thirty-three; thence west, on the line between townships one hundred and thirty-eight and one hundred and thirty-nine, to the south-west corner of township one hundred and thirty-nine of range thirty-five; thence north, on the line between ranges thirty-five and thirty-six, to the north-west corner of township one hundred and forty-two of range thirty-five; thence easterly, on the line between townships one hundred and forty-two and one hundred and forty-three, to its intersection with Itasca lake or the principal branch of the Mississippi river; thence down the main channel of said river to the place of beginning.

(G. S. 1866, c. 8, § 12; G. S. 1878, c. 8, § 15.)

By the act changing the boundaries of Aitkin county (Laws 1871, c. 96,) certain territory is detached from the eastern part of Cass county and added to Aitkin. See ante, § 536.

Cass county was organized by Laws 1872, c. 79, and disorganized by Sp. Laws 1876, c. 208.

After the passage of Sp. Laws 1876, c. 208, attaching Cass county to Crow Wing county, the county commissioners of Cass county had no power to remove the treasurer of such county, nor to fill the vacancy thereby created. *State v. McFadden*, 23 Minn. 40.

Same—Territory detached.

By Laws 1883, c. 73, townships 139 and 140, range 32, townships 139, 140, 141, and 142 of range 33, townships 139, 140, 141, 142, and 143 of ranges 34 and 35, were detached from Cass county to form Hubbard county.

By Laws 1887, c. 116, § 1, all the territory circumscribed by a line beginning at the northwest corner of township 52, range 27; thence running on the guide line to the center of the channel of the Mississippi river; thence following down along the center line of the channel of said river to a point where the north line of township 52 crosses said river; thence west on the north line of township 52, to the place of beginning,— was transferred from Cass county to Itasca county.

By Laws 1887, c. 118, all that part of Cass county lying south of the north line of township 138, and east of the north and south center line of range 29, was transferred from Cass county to Crow Wing county. Governor's proclamation that change was adopted by popular vote issued February 5, 1889.

The transfer of territory to Crow Wing county proposed by Laws 1883, c. 80, and that proposed by Laws 1885, c. 203, § 1, has not been made.

The transfer of territory to Wadena county proposed by Laws 1887, c. 79, was defeated by popular vote.

Same—Additional territory.

All that part of township one hundred and forty-five, range thirty-five, lying westerly of the Mississippi river, is hereby attached to Cass county.

(1889, c. 75, § 2.)

The transfer of territory from Morrison county proposed by Laws 1887, c. 260, and that proposed by Laws 1891, c. 148, has not gone into effect. See note to § 538.

§ 550. Chippewa county.

The county of Chippewa is established and bounded as follows: Beginning in the middle of the main channel of the Minnesota river on the range line between ranges thirty-eight and thirty-nine; thence north to the north-west corner of township one hundred and sixteen north, of range thirty-eight west; thence east, to the northeast corner of township one hundred and sixteen north, of range thirty-seven west; thence north to the northeast corner of township one hundred and twenty-two north, of range thirty-seven west; thence west to the northwest corner of township one hundred and twenty-two north, of range forty-three west; thence south to the centre of the main channel of the Minnesota river; thence down the said river to the place of beginning.

(1868, c. 113; G. S. 1878, c. 8, § 16.)

The northern part of Chippewa county was established as Swift county by Laws 1870, c. 90. See post, § 608.

§ 551. Chisago county.

The county of Chisago is established and bounded as follows: Beginning at the intersection of the main channel of the Saint Croix river with the line between townships thirty-two and thirty-three north on the fourth principal meridian; thence westerly, on said township line, to the south-west corner of township thirty-three of range twenty-one; thence northerly, on the line between ranges twenty-one and twenty-two, to the south-east corner of township thirty-six of range twenty-two; thence west, on the south line of said town, to the south-west corner thereof; thence north, on the line between ranges twenty-two and twenty-three, to the north-west corner of township thirty-seven of range twenty-two; thence east, on the line between townships thirty-seven and thirty-eight, to the centre of the main channel of the Saint Croix river; thence down along the centre of said channel to the place of beginning.

(G. S. 1866, c. 8, § 14; G. S. 1878, c. 8, § 17.)

§ 552. Clay county.

The county of Clay is established and bounded as follows: Beginning in the centre of the channel of the Red River of the North, at the first intersection of the line between townships one hundred and forty-two and one hundred and forty-three with said channel; thence eastwardly, along said township line, to the north-east corner of township one hundred and forty-two, range forty-four; thence southwardly, on the line between ranges forty-three and forty-four, to the south-east corner of township one hundred and thirty-seven, range forty-four; thence westwardly, on the line between townships one hundred and thirty-six and one hundred and thirty-seven, to the centre of the channel of the Red River of the North; thence down the main channel of said river, following the western boundary of the state, to the place of beginning.

(G. S. 1866, c. 8, § 15; G. S. 1878, c. 8, § 18.)

This county was organized by Laws 1872, c. 80.

§ 553. Cook county.

That all that portion of the territory of the present county of Lake, state of Minnesota, bounded and described as follows: Beginning at a point on the north shore of Lake Superior, on the range line between ranges five and six west of the fourth principal meridian; thence north, on said range line to the boundary line between the United States and the British Possessions; thence easterly, on said boundary line, to the boundary line between the states of Minnesota and Michigan; thence southerly, on said state boundary line, to the boundary line between the states of Minnesota and Wisconsin; thence westwardly, on said state boundary line, to a point where a southerly

(159)

prolongation of the range line first mentioned would intersect the state boundary line; thence north to the place of beginning, be and the same hereby is established as the county of Cook.

(1874, c. 100; G. S. 1878, c. 8, § 19.)

This county is composed of territory formerly forming part of the county of Lake. It was established and its organization directed by the act above cited.

By Laws 1883, c. 93, § 1, this county was declared to be duly organized.

§ 554. Cottonwood county.

The county of Cottonwood is established and bounded as follows: Beginning at the south-east corner of township one hundred and five north, of range thirty-four west from the fifth principal meridian; thence north on the line between ranges thirty-three and thirty-four to the north-east corner of town one hundred and eight of range thirty-four; thence west on a line between townships one hundred and eight and one hundred and nine to the north-west corner of town one hundred and eight of range thirty-eight; thence south on the line between ranges thirty-eight and thirty-nine to the south-west corner of town one hundred and five of range thirty-eight; thence east on the line between towns one hundred and four and one hundred and five, to the place of beginning.

(G. S. 1866, c. 8, § 16; G. S. 1878, c. 8, § 20.)

By the act of February 23, 1865, (Laws 1865, c. 71) defining the boundaries of Cottonwood, Brown and Redwood counties, the first of those counties is bounded as follows:

Same—Present boundaries.

The boundary line of Cottonwood county is hereby established, and shall hereafter be as follows: Beginning at the southwest corner of township one hundred and eight range thirty-three, thence west on the township line to the range line between ranges thirty-five and thirty-six; thence north on said line to the township line between townships one hundred and eight and one hundred and nine; thence west on said line to the range line between ranges thirty-eight and thirty-nine; thence south on said line to the township line between townships one hundred and four and one hundred and five; thence east on said line to the range line between ranges thirty-three and thirty-four; thence north on said line to the place of beginning.

(1865, c. 71, § 2; G. S. 1878, c. 8, § 20.)

This act having been duly ratified by popular vote, the boundaries therein established were the legal boundaries of Cottonwood county at the time of the passage of G. S. 1866, c. 8. By section 16 of that chapter (supra) township 103 of range 34 and township 103 of range 35 were transferred from Brown to Cottonwood county. But as this change in the lines of these counties was not submitted to popular vote, as required by Const. art. 11, § 1, in case of organized counties, section 16 never became a law, and the boundaries of Cottonwood county remain as fixed by the act of 1865. The county was organized by Laws 1873, c. 94; and see Laws 1870, c. 89.

§ 555. Crow Wing county.

The county of Crow Wing is established and bounded as follows: Beginning at the south-east corner of town forty-three north, of range twenty-eight west of the fourth principal meridian; thence north, on the line between ranges twenty-seven and twenty-eight, to the centre of the main channel of the Mississippi river; thence down along the centre of said channel to its intersection with the line between townships forty-two and forty-three; thence, on said township line, to the place of beginning.

(G. S. 1866, c. 8, § 17; G. S. 1878, c. 8, § 21.)

Same—Additional territory.

That all that part of Cass county lying south of the north line of township one hundred and thirty-eight, and east of the north and south center line of range twenty-nine, according to government survey, be and the same is hereby detached from the county of Cass, and annexed and attached to the county of Crow Wing, in said state.

(1887, c. 118, § 1; G. S. 1878, v. 2, c. 8, § 21f.)

Proclamation by governor issued February 5, 1889, declaring that this proposed change was adopted by popular vote of Crow Wing county.

Taxes.

All taxes heretofore levied and now uncollected on property within such territory, if the same shall be attached as above provided, shall belong to and shall be collected by the county of Crow Wing, as other taxes are collected in said county.

(1887, c. 118, § 4; G. S. 1878, v. 2, c. 8, § 21g.)

The transfer of territory from Crow Wing county, proposed by Laws 1883, c. 80, § 3, and that to Crow Wing county proposed by Laws 1885, c. 203, have not been made.

Laws 1887, c. 118, was not repealed by Laws 1887, c. 119 (§ 620, post). *State v. Archibald*, 43 Minn. 328, 45 N. W. Rep. 606.

§ 556. Dakota county.

The county of Dakota is established and bounded as follows: Beginning at the centre of the channel of the Minnesota river, opposite the mouth of Credit river; thence, on a straight line, to the north-east corner of township one hundred and twelve, of range twenty-one west from the fifth meridian; thence south, on the line between ranges twenty and twenty-one, to the south-west corner of section thirty, in town one hundred and twelve, of range twenty; thence east, on the section lines, to the south-east corner of section twenty-five, in township one hundred and twelve, of range nineteen; thence north, on the east line of said township, to its intersection with the main channel of Cannon river; thence down along said channel to its intersection with the line between ranges seventeen and eighteen; thence north, on said range line, to the north-west corner of town one hundred and twelve of range seventeen; thence east, on the line between one hundred and twelve and one hundred and thirteen, to the south-east corner of town one hundred and thirteen of range seventeen; thence north, on the east line of said town, to the north-east corner thereof; thence east, on the line between towns one hundred and thirteen and one hundred and fourteen, to the south-east corner of section thirty-three, in township one hundred and fourteen, of range sixteen; thence north, on the section line passing through the centre of said township, to its intersection with the main channel of the Mississippi river; thence up along said channel to the mouth of the Minnesota river; thence up the centre of the channel of said Minnesota river to the place of beginning.

(G. S. 1866, c. 8, § 18; G. S. 1878, c. 8, § 22.)

Same—Change of western boundary.

The boundary line between Scott and Dakota counties shall be as follows: Commencing at the south-east corner of township one hundred and thirteen north, of range twenty-one west; thence running north, on the east line of said township, to the north-east corner thereof; thence running west, on the north line of said township, to the south-west corner of section thirty-five, in township one hundred and fourteen north, of range twenty-one west; thence north, on section line, to the south-west quarter of section thirty-five, in township one hundred and fifteen, range twenty-one; thence west to the south-west corner of the south-east quarter of section thirty-four, in said township one hundred and fifteen, range twenty-one; thence north to the middle of the channel of the Minnesota river.

(1871, c. 97, § 1; G. S. 1878, c. 8, § 22.)

By Laws 1874, c. 101, the northern boundary of Dakota county was changed by the transfer of certain territory to Ramsey county. See post, § 596.

§ 557. Dodge county.

The county of Dodge is established and bounded as follows: Beginning at the south-east corner of township one hundred and five north, of range sixteen west; thence west, on the line between townships one hundred and four and one hundred and five, to the south-west corner of township one hundred and five, of range eighteen; thence north, on the line between ranges eighteen and nineteen, to the north-west corner of town one hundred and eight, of range eighteen; thence east, on the line between townships one hundred and eight and one hundred and nine, to the north-east corner of town one hundred and eight, of range sixteen; thence south, on the line between ranges fifteen and sixteen, to the place of beginning.

(G. S. 1866, c. 8, § 19; G. S. 1878, c. 8, § 23.)

§ 558. Douglas county.

The county of Douglas is established and bounded as follows: Beginning at the north-east corner of township one hundred and thirty north, of range thirty-six west from the fifth principal meridian; thence west, on the line between townships one hundred and thirty and one hundred and thirty-one, to the north-west corner of township one hundred and thirty, of range forty; thence south, on the line between ranges forty and forty-one, to the south-west corner of town one hundred and twenty-seven of range forty; thence east, on the line between towns one hundred and twenty-six and one hundred and twenty-seven, to the south-east corner of town one hundred and twenty-seven, of range thirty-six; thence north, on the line between ranges thirty-five and thirty-six, to the place of beginning.

(G. S. 1866, c. 8, § 20; G. S. 1878, c. 8, § 24.)

§ 559. Faribault county.

The county of Faribault is established and bounded as follows: Beginning at the south-east corner of township one hundred and one north, of range twenty-four west; thence west, on the boundary line between Minnesota and Iowa, to the south-west corner of town one hundred and one, of range twenty-eight; thence north, on the line between ranges twenty-eight and twenty-nine, to the north-west corner of town one hundred and four, of range twenty-eight; thence on the line between towns one hundred and four and one hundred and five, to the north-east corner of town one hundred and four, of range twenty-four; thence south, on the line between ranges twenty-three and twenty-four, to the place of beginning.

(G. S. 1866, c. 8, § 21; G. S. 1878, c. 8, § 25.)

§ 560. Fillmore county.

The county of Fillmore is established and bounded as follows: Beginning at the south-east corner of township one hundred and one north, of range eight west from the fifth meridian; thence north, on the line between ranges seven and eight, to the north-east corner of township one hundred and four of range eight; thence west, on the line between townships one hundred and four and one hundred and five, to the north-west corner of township one hundred and four of range thirteen; thence south, on the line between ranges thirteen and fourteen, to the south-west corner of township one hundred and one of range thirteen; thence east, on the state boundary line, to the place of beginning.

(G. S. 1866, c. 8, § 22; G. S. 1878, c. 8, § 26.)

§ 561. Freeborn county.

The county of Freeborn is established and bounded as follows: Beginning at the southeast corner of township one hundred and one north, of range nineteen west of the fifth meridian; thence west, on the state boundary line, to the south-west corner of town one hundred and one of range twenty-three; thence north, on the line between ranges twenty-three and twenty-four, to the northwest corner of township one hundred and four of range twenty-three; thence east, on the line between townships one hundred and four and one hundred and five, to the north-east corner of town one hundred and four of range nineteen; thence south, on the line between ranges eighteen and nineteen, to the place of beginning.

(G. S. 1866, c. 8, § 23; G. S. 1878, c. 8, § 27.)

§ 562. Goodhue county.

The county of Goodhue is established and bounded as follows: Beginning at the south-west corner of township one hundred and nine north, of range eighteen west; thence north, on the range line between ranges eighteen and nineteen, to its intersection with the centre of the main channel of Cannon river; thence down the middle of said channel to the line between ranges seventeen and eighteen; thence north on said range line, to the line between townships one hundred and twelve and one hundred and thirteen; thence east, on said line, to the south-west corner of township one hundred and thir-

teen of range sixteen; thence north, on the west line of said township, to the north-west corner thereof; thence east on the north line of said township, to the south-west corner of section thirty-four, of town one hundred and fourteen, of range sixteen; thence north, along the section line, to the middle of the main channel of the Mississippi river; thence down the middle of said channel and of Lake Pepin to a point due east of the termination of the line between townships one hundred and eleven and one hundred and twelve; thence to and along said line to the north-east corner of township one hundred and eleven of range fourteen; thence south, upon the east line of said town, to the south-east corner thereof; thence west, upon the south line of said township, to the south-west corner thereof; thence south, upon the line between ranges fourteen and fifteen, to the line between townships one hundred and eight and one hundred and nine; thence west, upon said township [line], to the place of beginning.

(G. S. 1866, c. 8, § 24; G. S. 1878, c. 8, § 28.)

§ 563. Grant county.

The county of Grant is established and bounded as follows: Beginning at the north-east corner of township one hundred and thirty north of range forty-one west; thence west, to the north-west corner of township one hundred and thirty north, of range forty-four west; thence south, to the south-west corner of township one hundred and twenty-seven north, of range forty-four west; thence east to the south-east corner of township one hundred and twenty-seven north, of range forty-one west; thence to the place of beginning.

(1868, c. 109, § 5; G. S. 1878, c. 8, § 29.)

This county was formed by Laws 1868, c. 109, § 5, from territory previously comprised in the counties of Stevens, Traverse and Wilkin. It was organized by Laws 1873, c. 91.

By Sp. Laws 1881, c. 379, removal of county-seat to village of Herman was to be submitted to popular vote. Proclamation by governor issued November 21, 1881, declaring the change to Herman adopted.

§ 564. Hennepin county.

The county of Hennepin is established and bounded as follows: Beginning in the centre of the main channel of the Mississippi river, at its intersection with the north line of township twenty-nine north, of range twenty-four west from the fourth principal meridian; thence east, on said township line, to the north-east corner of section six, in township twenty-nine, of range twenty-three; thence south, on the section lines, to the Mississippi river; thence down said river, in the western channel thereof, to the centre of the main channel of the Minnesota river; thence up the centre of said channel to the line between ranges twenty-two and twenty-three west from the fifth meridian; thence north, on said line, to the north-west corner of town one hundred and sixteen of range twenty-two; thence west, on the line between towns one hundred and sixteen and one hundred and seventeen, to the south-west corner of town one hundred and seventeen of range twenty-four; thence north, on the line between ranges twenty-four and twenty-five, to the middle of the main channel of Crow river; thence down along the middle of said channel to the middle of the main channel of the Mississippi river; thence down the middle of said channel to the place of beginning.

(G. S. 1866, c. 8, § 25; G. S. 1878, c. 8, § 30.)

As to the Crow River boundary, see Powers v. Amcs, 9 Minn. 178, (Gil. 164); Guilder v. Town of Otsego, 20 Minn. 74, 77, (Gil. 59, 63.)

§ 565. Houston county.

The county of Houston is established and bounded as follows: Beginning in the middle of the main channel of the Mississippi river on the line between Iowa and Minnesota; thence west, on the state boundary line, to the south-west corner of township one hundred and one of range seven; thence north, on the line between ranges seven and eight, to the north-west corner of town one hundred and four of range seven; thence east, on the line between townships one hundred and four and one hundred and five, to the middle of the

MINNESOTA STATUTES 1894

§§ 565-568

COUNTIES AND COUNTY OFFICERS.

[Ch. 8

main channel of the Mississippi river; thence down the centre of said channel to the place of beginning.

(G. S. 1866, c. 8, § 26; G. S. 1878, c. 8, § 31.)

§ 566. Hubbard county.

That the following-described territory, all of which lies within the present territorial limits of the county of Cass, in this state, is hereby established as an organized county of this state, to be hereafter known and designated as the county of Hubbard; that is to say: Townships numbered one hundred and thirty-nine and one hundred and forty, range number thirty-two; townships numbered one hundred and thirty-nine, one hundred and forty, one hundred and forty-one, and one hundred and forty-two, of range number thirty-three; and townships numbered one hundred and thirty-nine, one hundred and forty, one hundred and forty-one, one hundred and forty-two, and one hundred and forty-three, of ranges number thirty-four and thirty-five west of the fifth principal meridian, according to the United States survey of public lands.

(1883, c. 78, § 1; G. S. 1878, v. 2, c. 8, § 31a.)

§§ 2-4 provide for appointment of county commissioners, who are to locate the county seat and appoint county officers.

§ 567. Isanti county.

The county of Isanti is established and bounded as follows: Beginning at the south-east corner of section twenty-four, in town thirty-four north, of range twenty-two west from the fourth principal meridian; thence west, upon the section lines, to the south-west corner of section nineteen, in township thirty-four, of range twenty-five; thence north, upon the line between ranges twenty-five and twenty-six, to the north-west corner of town thirty-seven of range twenty-five; thence east, upon the line between townships thirty-seven and thirty-eight, to the north-east corner of town thirty-seven of range twenty-three; thence south, upon the line between ranges twenty-two and twenty-three, to the north-west corner of town 35 of range twenty-two; thence east, on the north line of said town, to the north-east corner thereof; thence south, on the line between ranges twenty-one and twenty-two, to the place of beginning.

(G. S. 1866, c. 8, § 27; G. S. 1878, c. 8, § 32.)

§ 568. Itasca county.

The county of Itasca is established and bounded as follows: Beginning on the north boundary line of the state, in the middle of the Lake of the Woods; thence on a line running due south, to the middle of the main channel of the Mississippi river; thence down said channel, to the line between townships forty-seven and forty-eight north of the fourth meridian; thence east, on said township line, to the line between ranges twenty-one and twenty-two; thence due north to the boundary between the United States and British Possessions; thence westerly, along said boundary, to the place of beginning.

(G. S. 1866, c. 8, § 28; G. S. 1878, c. 8, § 33.)

By Laws 1866, c. 46, the western boundary of Itasca county was changed, a part of its territory being transferred to the new county of Beltrami. See ante, § 542.

By Laws 1871, c. 96, certain territory in the south-easterly part of Itasca county was transferred to Aitkin county. See ante, § 556. The county was organized by Laws 1891, c. 147.

Same—Additional territory.

That all that certain territory situate in the county of Cass in this state and described as follows, to-wit: Commencing at the north-west corner of township number fifty-two, and range twenty-seven, in the state of Minnesota; thence running on the guide line to the center of the stream or channel of the Mississippi river; thence following down along the center line of the channel of said river to a point where the north line of township fifty-two crosses said river; thence west, on the north line of township fifty-two, to

the place of beginning,—be and the same is hereby detached from the county of Cass in this state, and attached to the county of Itasca in this state.

(1887, c. 116, § 1;¹ G. S. 1878, v. 2, c. 8, § 33a.)

Transcripts of records—Taxes.

That transcripts shall be made at the expense of said Itasca county by the register of deeds keeping the records of and for Itasca county, as soon as may be practicable, of all records now affecting the titles to the lands lying and being within said described territory, which said transcripts shall be recorded at length by said register of deeds in the records of said Itasca county; and, when so recorded, they shall have the same force and effect as if originally recorded therein: *provided*, that no tax shall be levied thereupon other than that provided by law to be levied in such organized counties.

(1887, c. 116, § 2; G. S. 1878, v. 2, c. 8, § 33b.)

§ 569. Jackson county.

The county of Jackson is established and bounded as follows: Beginning at the south-east corner of township one hundred and one north, of range thirty-four west; thence north, on the line between ranges thirty-three and thirty-four, to the north-east corner of town one hundred and four north, of range thirty-four west; thence west, on the line between towns one hundred and four and one hundred and five, to the north-west corner of town one hundred and four of range thirty-eight west; thence south, on the line between ranges thirty-eight and thirty-nine, to the south-west corner of town one hundred and one of range thirty-eight; thence east, on the state boundary line, to the place of beginning.

(G. S. 1866, c. 8, § 29; G. S. 1878, c. 8, § 34.)

§ 570. Kanabec county

The county of Kanabec is established and bounded as follows: Beginning at the south-east corner of township thirty-eight, range twenty-three west; thence west to the south-west corner of township thirty-eight, range twenty-five west; thence north to the north-west corner of township forty, range twenty-five west; thence east to the south-west corner of township forty-one, range twenty-four west; thence north to the north-west corner of township forty-two, range twenty-four west; thence east to the north-east corner of township forty-two, range twenty-two west; thence south to the south-east corner of township forty-one, range twenty-two west; thence west to the north-east corner of township forty, range twenty-three west; thence south to the place of beginning.

(G. S. 1866, c. 8, § 30; G. S. 1878, c. 8, § 35.)

The county was declared organized by Laws 1881, Ex. S. c. 87.

§ 571. Kandiyohi county.

The county of Kandiyohi is established and bounded as follows: Beginning at the south-east corner of township one hundred and seventeen, range thirty-three; thence running west to the south-west corner of township one hundred and seventeen, range thirty-six; thence north to the north-west corner of township one hundred and nineteen, range thirty-six; thence east to the north-east corner of township one hundred and nineteen, range thirty-three; and thence south to the place of beginning.

(G. S. 1866, c. 8, § 31; G. S. 1878, c. 8, § 36.)

Monongalia county.

The county of Monongalia is established and bounded as follows: Beginning at the south-east corner of town one hundred and twenty of range thirty-three; and running thence, in a westerly direction, along the line between towns one hundred and nineteen and one hundred and twenty, to the south-west corner of town one hundred and twenty of range thirty-six; thence in a northerly direction, along the range line between ranges thirty-six and thirty-seven, to the north-west corner of town one hundred and twenty-two of range thirty-six; thence in an easterly direction, along the lines between

¹ By § 4 of this act all acts and parts of acts inconsistent therewith are repealed so far as relates to this territory.

towns one hundred and twenty-two and one hundred and twenty-three, to the north-east corner of town one hundred and twenty-two of range thirty-three; thence in a southerly direction, along the line between ranges thirty-two and thirty-three, to the place of beginning.

(G. S. 1866, c. 8, § 41; G. S. 1878, c. 8, § 36.)

By Laws 1870, c. 92, the counties of Kandiyohi and Monongalia were consolidated under the name of Kandiyohi.

A record of a deed, in 1869, in Meeker county, of lands in Kandiyohi county is good. Sp. Laws 1869, c. 75, did not have the effect to organize the last-named county, generally. *Smith v. Anderson*, 33 Minn. 23, 27, 21 N. W. Rep. 841.

§ 572. Kittson county.

The county of Kittson is established and bounded as follows: Beginning at a point where the line between townships one hundred and fifty-eight and one hundred and fifty-nine intersects the center of the channel of the Red River of the North; thence east along said line produced to the point where said produced line intersects the line between ranges thirty-eight and thirty-nine; thence northwardly along said range line to the boundary line between the United States and British possessions; thence westerly along the said boundary line to the middle of the main channel of the Red River of the North; thence up said river, along the middle thereof, to the place of beginning.

(G. S. 1866, c. 8, § 49; G. S. 1878, c. 8, § 37; as amended 1879, c. 10, § 2.)

The name of this county was changed from Pembina to Kittson by Laws 1873, c. 59. The county was declared to be organized by Laws 1879, c. 10, § 4.

§ 573. Lac qui Parle county.

The county of Lac qui Parle is hereby established, and the boundary lines thereof shall be as follows: Commencing at the intersection of the middle line of the Minnesota river with the range line between ranges forty and forty-one; thence in a northwesterly direction, along the middle line of the Minnesota river, to the western boundary of the state; thence south, along the western boundary line of the state, to the township line between townships one hundred and fifteen and one hundred and sixteen; thence east, along the township line between townships one hundred and fifteen and one hundred and sixteen, to the range line between ranges forty-one and forty-two; thence north, along the range line between ranges forty-one and forty-two, to the township line between townships one hundred and sixteen and one hundred and seventeen; thence east, along the township line between townships one hundred and sixteen and one hundred and seventeen; to the range line between ranges forty and forty-one; thence north, along the range line between ranges forty and forty-one, to the place of beginning.

(1871, c. 100, § 1; G. S. 1878, c. 8, § 38.)

This county comprises no part of the territory which constituted the county of the same name described in G. S. 1866. The above described county was created by Laws 1871, c. 100, and was organized by the same act. The territory comprising it formed part of Redwood county as described in G. S. 1866.

Proclamation by governor issued November 11, 1886, declaring change of county seat to Madison adopted by popular vote, pursuant to Laws 1885, c. 272.

§ 574. Lake county.

The county of Lake is established and bounded as follows: Beginning at the mouth of Knife river on the north shore of Lake Superior; thence due north to the boundary line between the United States and British Possessions; thence easterly, on said boundary line, to the boundary line between Minnesota and Wisconsin; thence westwardly, on said state boundary, to a point due south of the mouth of Knife river; thence to the place of beginning.

(G. S. 1866, c. 8, § 33; G. S. 1878, c. 8, § 39.)

By Laws 1874, c. 100, Cook county was formed from territory detached from the eastern portion of Lake county. See ante, § 553.

The organization of Lake county was legalized by Laws 1883, c. 86.

Proclamation by governor issued November 26, 1886, declaring change of county seat from Beaver Bay to Two Harbors adopted by popular vote, pursuant to provisions of Laws 1885, c. 272.

MINNESOTA STATUTES 1894

Tit. 1]

TERRITORIAL DIVISIONS.

§§ 575-578

§ 575. Le Sueur county.

The county of LeSueur is established and bounded as follows: Beginning at the centre of the main channel of the Minnesota river, where the line between sections eighteen and nineteen, of township one hundred and nine, of range twenty-six, crosses said river; thence east, on said section line, to the line between ranges twenty-four and twenty-five; thence south, on said line, to the line between townships one hundred and eight and one hundred and nine; thence east, on said line, to the line between ranges twenty-two and twenty-three; thence north, on said range line, to the line between townships one hundred and twelve and one hundred and thirteen; thence west on said township line, to the north-west corner of town one hundred and twelve of range twenty-five; thence south, on the west line of said town, to its intersection with the main channel of the Minnesota river; thence following said channel to its next intersection with said lines; thence following said line to its third intersection with said channel, on the west side of section seven in said town; thence up said channel to the line between sections twenty-four and twenty-five, in town one hundred and twelve, of range twenty-six; thence west, on said line, to the north-west corner of said section twenty-five; thence south, on the west line of said section, to the quarter post; thence west, on the quarter line, to the west quarter post of section twenty-six in said town; thence south, on the section line, to the middle of the channel of the Minnesota river; thence up said channel to the place of beginning.

(G. S. 1866, c. 8, § 34; G. S. 1878, c. 8, § 40.)

By Laws 1893, c. 159, certain territory west of the Minnesota river, in sections 25, 26, and 35, town 112, range 26 is annexed to Sibley county. The act appears to be unconstitutional, for the reason stated in note to § 604, post.

§ 576. Lincoln county.

That all that part of the territory of the county of Lyon, state of Minnesota, west of range numbered forty-three west of the fifth principal meridian, be and the same is hereby established as the county of Lincoln, by which name it shall be described and known.

(1873, c. 92, § 1; G. S. 1878, c. 8, § 41.)

This county includes no part of the territory which composed the county of the same name described in the G. S. 1866. It was formed out of Lyon county by Laws 1873, c. 92, and organized by the same act.

See note to § 577.

By Sp. Laws 1881, c. 334, change of county seat from Marshfield to Lake Benton was to be submitted to popular vote. Proclamation by governor issued November 16, 1881, declaring the change to Lake Benton adopted.

§ 577. Lyon county.

The boundary line of Lyon county is hereby established and shall hereafter be as follows: Beginning at the south-east corner of township one hundred and nine, range forty; thence due north to the north-east corner of township one hundred and thirteen, range forty west of the fifth principal meridian; thence west to the boundary line of the state of Minnesota; thence south, on the boundary line of the state, to the township line between townships one hundred and eight and one hundred and nine; thence east on said township line to the place of beginning.

(1869, c. 94, § 1; G. S. 1878, c. 8, § 42.)

The territory thus formed into Lyon county was comprised in Redwood county as described in the G. S. 1866. By Laws 1873, c. 92, § 1, all that part of Lyon county lying west of range forty-three was formed into the county of Lincoln. It is recognized as organized in Sp. Laws 1872, c. 88, fixing its county seat, and in Laws 1873, c. 92, establishing Lincoln county.

§ 578. Marshall county.

The county of Marshall is hereby established and bounded as follows: Commencing at the intersection of the middle line of the main channel of the Red River of the North with the line between townships one hundred and fifty-four and one hundred and fifty-five; thence east along said line to the south-east corner of township one hundred and fifty-five; thence north along the line between ranges thirty-eight and thirty-nine to its intersection with the

line between townships one hundred and fifty-eight and one hundred and fifty-nine produced; thence west along said line to the center of the main channel of the Red River of the North; thence up the main channel of said river, following the western boundary of the state, to the place of beginning.

(1879, c. 10, § 3; G. S. 1878, v. 2, c. 8, § 44a.)

The county was organized by Laws 1879, c. 10, § 4.

County seat of Marshall county established at Warren, by Laws 1831, Ex. S. c. 86.

Same—Additional territory.

All the territory lying between the southern line of Marshall county as now established, and the northern line of Polk county as now established, is hereby attached to, and shall hereafter form a part of, the county of Marshall, and the northern line of Polk county as now established by law, to wit: "Beginning in the middle of the main channel of the Red River of the North, opposite the mouth of Turtle river, and running thence due east," to the eastern line of said Marshall county prolonged south,—shall be and is hereby established as the southern boundary line of said Marshall county.

(1883, c. 81, § 1; G. S. 1878, v. 2, c. 8, § 44b, note.)

Proclamation by governor issued July 31, 1883, declaring territory described above attached to Marshall county, and southern line of Marshall county shall be northern line of Polk county.

The change in the boundary line between these two counties proposed by Laws 1885, c. 221, was rejected by popular vote. See, also, Laws 1881, c. 112.

§ 579. Martin county.

The county of Martin is established and bounded as follows: Beginning at the south-west corner of township one hundred and one north, of range twenty-eight west; thence north, on the line between ranges twenty-eight and twenty-nine, to the north-east corner of town one hundred and four of range twenty-nine; thence west, on the line between townships one hundred and four and one hundred and five, to the north-west corner of town one hundred and four of range thirty-three; thence south, on the line between ranges thirty-three and thirty-four, to the south-west corner of town one hundred and one of range thirty-three; thence east, on the line between Iowa and Minnesota, to the place of beginning.

(G. S. 1866, c. 8, § 37; G. S. 1878, c. 8, § 43.)

§ 580. McLeod county.

The county of McLeod is established and bounded as follows: Beginning at the south-east corner of town one hundred and fifteen of range twenty-seven west from the fifth meridian; thence north, on the line between ranges twenty-six and twenty-seven, to the north-east corner of town one hundred and seventeen of range twenty-seven; thence west, on the line between towns one hundred and seventeen and one hundred and eighteen, to the north-west corner of town one hundred and seventeen of range thirty; thence south, on the line between ranges thirty and thirty-one, to the south-west corner of town one hundred and fourteen of range thirty; thence east, on the line between towns one hundred and thirteen and one hundred and fourteen, to the south-east corner of town one hundred and fourteen of range twenty-nine; thence north, on the east line of said town, to the north-east corner thereof; thence east, on the line between townships one hundred and fourteen and one hundred and fifteen, to the place of beginning.

(G. S. 1866, c. 8, § 38; G. S. 1878, c. 8, § 44.)

§ 581. Meeker county.

The county of Meeker is established and bounded as follows: Beginning at the south-east corner of town one hundred and eighteen north, of range twenty-nine west from the fifth meridian; thence north, on the line between ranges twenty-eight and twenty-nine, to the north-east corner of section twenty-four, of town one hundred and twenty-one, in range twenty-nine; thence west, on the section lines, to the north-east corner of section twenty-four, of town one hundred and twenty-one, of range thirty; thence north, on the east line of said town, to the north-east corner thereof; thence west, on the line between towns one hundred and twenty-one and one hundred and twenty-two, to the north-west corner of town one hundred and twenty-one of

range thirty-two; thence south, on the line between ranges thirty-two and thirty-three, to the south-west corner of town one hundred and eighteen of range thirty-two; thence east, on the line between townships one hundred and seventeen and one hundred and eighteen, to the place of beginning.

(G. S. 1866, c. 8, § 39; G. S. 1878, c. 8, § 45.)

Same—Townships added.

That the townships numbered one hundred and seventeen, of ranges numbered thirty-one and thirty-two, are hereby detached from the county of Ken-ville, and attached to the county of Meeker, and the said townships are hereby declared to be a part of said Meeker county, in this state.

(1870, c. 97, § 1; G. S. 1878, c. 8, § 45.)

§ 582. Mille Lacs county.

The county of Mille Lacs is established and bounded as follows: Beginning at the south-east corner of township thirty-six north, of range twenty-six west from the fourth meridian; thence north, on the line between ranges twenty-five and twenty-six, to the north-east corner of township forty of range twenty-six; thence east, on the line between townships forty and forty-one, to the south-east corner of town forty-one of range twenty-five; thence north, on the line between ranges twenty-four and twenty-five, to the north-east corner of town forty-three of range twenty-five; thence west, on the line between towns forty-three and forty-four, to the north-west corner of town forty-three of range twenty-seven; thence south, on the line between ranges twenty-seven and twenty-eight, to the south-west corner of town thirty-six of range twenty-seven; thence east, on the line between towns thirty-five and thirty-six, to the place of beginning.

(G. S. 1866, c. 8, § 40; G. S. 1878, c. 8, § 46.)

§ 583. Morrison county.

The county of Morrison is established and bounded as follows: Beginning on the range line between townships forty-two and forty-three north, of range twenty-eight west, at the north-east corner of said township forty-two north, of range twenty-eight west; thence west, on said range* line, to the centre of the main channel of the Mississippi river; thence running up said channel to the mouth of the Crow Wing river; thence up the main channel of said river until the same intersects the range line between townships one hundred and thirty-three north, of range thirty-one and thirty-two west; thence south, on said range line, to a point directly west of the middle of the main channel of the Mississippi river, opposite the mouth of Platte river; thence east to the middle of the main channel of the Mississippi river; thence up said channel to a point west of the range* line between townships thirty-eight and thirty-nine north, of range thirty-two west; thence east, following said range* line, to the south-east corner of township thirty-nine, north of range twenty-eight west; thence north, on the range line between townships thirty-nine north and range twenty-seven and twenty-eight west, following said range line to the beginning.

(1867, c. 116, § 1; G. S. 1878, c. 8, § 47.)

*This should read "township" instead of "range."

Same—Southern boundary.

That all that portion of the county of Stearns lying north of the section line running due east from the north-east corner of said section thirty-six, township one hundred and twenty-seven, range thirty-two, to the Mississippi river, be and the same is hereby detached therefrom, and added to and made a portion of the county of Morrison.

(1870, c. 98, § 1; G. S. 1878, c. 8, § 47.)

The transfer of territory to Crow Wing county proposed by Laws 1883, c. 80, § 2, has not been made.

The transfer of territory from Crow Wing county proposed by Laws 1883, c. 80, § 3, has not been made.

By Laws 1887, c. 260, all that part of Morrison county lying north of the north line of township 131 was to be detached from Morrison and annexed to Cass, upon the organization of the latter county, if the proposed change was adopted by the electors. This has not gone into effect. The proposal in Laws 1891, c. 148, to annex this same territory to Cass county, was defeated by popular vote.

MINNESOTA STATUTES 1894

§§ 584-588

COUNTIES AND COUNTY OFFICERS.

[Ch. 8

§ 584. Mower county.

The county of Mower is established and bounded as follows: Beginning at the south-east corner of township one hundred and one north, of range fourteen west of the fifth principal meridian; thence west, on the line between Minnesota and Iowa, to the line between ranges eighteen and nineteen; thence north, on said range line, to the line between townships one hundred and four and one hundred and five; thence east, on said township line, to the north-east corner of town one hundred and four of range sixteen; thence south, on the east line of said town, to the north-east corner of section twelve in said town; thence east, on the section line, to the north-east corner of section twelve, in town one hundred and four, of range fourteen; thence south, on the line between ranges thirteen and fourteen, to the place of beginning.

(G. S. 1866, c. 8, § 43; G. S. 1878, c. 8, § 48.)

§ 585. Murray county.

The county of Murray is established and bounded as follows: Beginning at the south-east corner of town one hundred and five north, of range thirty-nine west; thence north, on the line between ranges thirty-eight and thirty-nine, to the north-east corner of town one hundred and eight of range thirty-nine; thence west, on the line between townships one hundred and eight and one hundred and nine, to the north-west corner of town one hundred and eight of range forty-three; thence south, on the line between ranges forty-three and forty-four; to the south-west corner of town one hundred and five of range forty-three; thence east, on the line between towns one hundred and four and one hundred and five, to the place of beginning.

(G. S. 1866, c. 8, § 44; G. S. 1878, c. 8, § 49.)

This county was organized by Laws 1872, c. 82.

Proclamation by governor, March 24, 1887, declaring change of county seat from Currie to Slayton approved by popular vote, pursuant to Laws 1885, c. 272.

§ 586. Nicollet county.

The county of Nicollet is established and bounded as follows: Beginning in the centre of the channel of the Minnesota river, on the line between townships one hundred and eleven and one hundred and twelve north, in range twenty-six; thence west, on said township line, to the centre of the channel of the Minnesota river in range thirty-three west; thence down along the middle of the main channel of said river to the place of beginning.

(G. S. 1866, c. 8, § 45; G. S. 1878, c. 8, § 50.)

§ 587. Nobles county.

The county of Nobles is established and bounded as follows: Beginning at the south-east corner of township one hundred and one north, of range thirty-nine west of the fifth principal meridian; thence north, on the line between ranges thirty-eight and thirty-nine, to the north-east corner of township one hundred and four north, of range thirty-nine west; thence west, on the line between townships one hundred and four and one hundred and five, to the north-west corner of township one hundred and four of range forty-three; thence south, on the line between ranges forty-three and forty-four, to the south-west corner of town one hundred and one of range forty-three; thence east, on the line between Minnesota and Iowa, to the place of beginning.

(G. S. 1866, c. 8, § 46; G. S. 1878, c. 8, § 51.)

The organization of this county was legalized by Laws 1874, c. 83.

§ 588. Norman county.

That all that portion of the territory of the present county of Polk south of the line running east and west between townships one hundred and forty-six and one hundred and forty-seven, be and the same hereby is established as the county of Norman, and the county-seat of said county shall be at the town of Ada.

(1881, c. 92, § 1; G. S. 1878, v. 2, c. 8, § 51a.)

Proclamation by governor issued November 28, 1881, declaring county duly created.

Same—Transcript of records—Evidence.

It shall be the duty of the Register of Deeds appointed by section six of this act, or his successors in office, to transcribe into the records of his office,

as soon as may be, all the records pertaining to all the property included in the said new county of Norman from the records of the county of Polk, and he shall receive for said work from the County Treasurer of said new county of Norman not to exceed the sum of six cents per folio, and said records so made shall be the legal records of and pertaining to all said property in said Norman county, and have the same effect in law as though the original instruments had been recorded in said office, and may be read in evidence in any court of this State as such records.

(1881, c. 92, § 7.)

§ 589. Olmsted county.

The county of Olmsted is established and bounded as follows: Beginning at the south-east corner of township one hundred and five north, of range eleven west from the fifth principal meridian; thence west, on the line between townships one hundred and four and one hundred and five, to the north-east corner of town one hundred and four of range fourteen; thence south, on the east line of said town, to the south-east corner of section one in said town; thence west, on the section line, to the south-west corner of section six, in town one hundred and four, of range fifteen; thence north, on the line between ranges fifteen and sixteen, to the north-west corner of town one hundred and eight of range fifteen; thence east, on the line between townships one hundred and eight and one hundred and nine, to the north-east corner of town one hundred and eight of range thirteen; thence south, on the east line of said town, to the line between townships one hundred and seven and one hundred and eight; thence east, on said township line, to the north-east corner of town one hundred and seven of range eleven; thence south, on the line between ranges ten and eleven, to the place of beginning.

(G. S. 1866, c. 8, § 47; G. S. 1878, c. 8, § 52.)

§ 590. Otter Tail county.

The county of Otter Tail is established and bounded as follows: Beginning at the north-west corner of township one hundred and thirty-seven of range forty-three; thence eastwardly, on the line between townships one hundred and thirty-seven and one hundred and thirty-eight, to the north-east corner of township one hundred and thirty-seven of range thirty-six; thence southwardly, on the line between ranges thirty-five and thirty-six, to the south-east corner of township one hundred and thirty-one of range thirty-six; thence westwardly, on the line between townships one hundred and thirty and one hundred and thirty-one, to the south-west corner of township one hundred and thirty-one of range forty-three; thence northwardly, on the line between ranges forty-three and forty-four, to the place of beginning.

(G. S. 1866, c. 8, § 48; G. S. 1878, c. 8, § 53.)

Same—Townships added.

Townships 131, 132, 133, 134, 135, and 136, in range 44 west, are hereby detached from the county of Wilkin, and the same are hereby attached to and made a part of Otter Tail county as hereinafter provided.

(1872, c. 87, § 1; G. S. 1878, c. 8, § 53.)

§ 591. Pembina county changed to Kittson.

The name of the county of Pembina is hereby changed to the county of Kittson, and the said county of Pembina shall be known and be termed for all purposes whatever as the county of Kittson, but without prejudice to any legal or judicial proceedings now pending.

(1878, c. 59, § 1; G. S. 1878, c. 8, § 54.)

§ 592. Pine county.

The county of Pine is established and bounded as follows: Beginning in the centre of the main channel of the St. Croix river, on the line between townships thirty-seven and thirty-eight north of the fourth meridian; thence west, on said township line, to the south-west corner of town thirty-eight of range twenty-two; thence north, on the line between ranges twenty-two and twenty-three, to the north-west corner of town forty of range twenty-two; thence east, on the line between townships forty and forty-one, to the south-west corner of town forty-one of range twenty-one; thence north, on the

MINNESOTA STATUTES 1894

§§ 592-596

COUNTIES AND COUNTY OFFICERS.

[Ch. 8.]

line between ranges twenty-one and twenty-two, to the north-west corner of town forty-five of range twenty-one; thence east, on the line between towns forty-five and forty-six, to the boundary line between Wisconsin and Minnesota; thence southerly, along said boundary line to the place of beginning.

(G. S. 1866, c. 8, § 50; G. S. 1878, c. 8, § 55.)

§ 593. Pipestone county.

The county of Pipestone is established and bounded as follows: Beginning at the intersection of the line between townships one hundred and eight and one hundred and nine with the western boundary of the state; thence eastwardly; on said township line, to the north-east corner of township one hundred and eight, range forty-four; thence southwardly, on the line between ranges forty-three and forty-four, to the south-east corner of township one hundred and five, range forty-four; thence westwardly, on the line between townships one hundred and four and one hundred and five to its intersection with the western boundary of the state; thence north, along said boundary, to the place of beginning.

(G. S. 1866, c. 8, § 51; G. S. 1878, c. 8, § 56.)

This county is organized. See Laws 1879, c. 63, § 1.

§ 594. Polk county.

The county of Polk is established and bounded as follows: Beginning in the middle of the main channel of the Red River of the North, opposite the mouth of Turtle river; thence up along the centre of said channel to the line between townships one hundred and forty-two and one hundred and forty-three; thence easterly, on said township line, to Itasca lake or the Mississippi river; thence down the centre of the main channel of said river to a line running due south from the centre of the Lake of the Woods; thence north, on said line, to a line running due east from the mouth of Turtle river; thence west, on said line, to the place of beginning.

(G. S. 1866, c. 8, § 52; G. S. 1878, c. 8, § 57.)

By Laws 1866, c. 46, the eastern boundary of Polk county was changed, certain territory being transferred to the new county of Beltrami.

Part of this county was formed into Norman county by Laws 1881, c. 92. See § 588.

The northern boundary of Polk county is described also in Laws 1883, c. 81, § 1.

The change in the boundary line with Marshall county proposed by Laws 1885, c. 221, § 1, was defeated by popular vote. See Laws 1881, c. 112.

Organized by Laws 1873, c. 98.

§ 595. Pope county.

The boundary line of Pope county is hereby established, and shall hereafter be as follows: Beginning at the north-east corner of township one hundred and twenty-six north, of range thirty-six west of fifth principal meridian; thence west to the north-west corner of township one hundred and twenty-six north, of range forty west; thence south to the south-west corner of township one hundred and twenty-three north, of range forty west; thence east to the south-east corner of township one hundred and twenty-three north, of range thirty-six west; thence north to the place of beginning.

(1866, c. 44, § 1; G. S. 1878, c. 8, § 58.)

The territory comprised within the boundaries established by Laws 1866, c. 44, is identical with that forming Pope county, as described in G. S. 1866. The county was organized by Laws 1866, c. 44.

§ 596. Ramsey county.

The county of Ramsey is established and bounded as follows: Beginning at the north-west corner of town thirty north, of range twenty-three west of the fourth principal meridian; thence east, on the line between townships thirty and thirty-one, to the north-east corner of town thirty of range twenty-two; thence south, on the line between ranges twenty-one and twenty-two, to the south-east corner of section twenty-four, in town twenty-eight, of range twenty-two; thence west, on the section line, to the middle of the main channel of the Mississippi river; thence up the middle of said channel to the mouth of the Minnesota river; thence following the western channel of said Mississippi river, so as to include in Ramsey county the islands in said Mis-

MINNESOTA STATUTES 1894

Tit. 1]

TERRITORIAL DIVISIONS.

§§ 596-598

Mississippi river at and above the mouth of said Minnesota river, to the line between sections thirty-one and thirty-two, of town twenty-nine, in range twenty-three; thence north, on the section line, to the north-west corner of section five in said town; thence west, on the north line of said town, to the north-west corner thereof; thence north, on the line between ranges twenty-three and twenty-four, to the place of beginning.

(G. S. 1866, c. 8, § 54; G. S. 1878, c. 8, § 59.)

Same—Additional territory.

That all of that part of Dakota county lying north of the south boundary line of sections seven and eight and nine, of township number twenty-eight, range twenty-two west, and section twelve of township twenty-eight, range twenty-three west, are hereby detached from the county of Dakota, and attached to the county of Ramsey, for all purposes whatsoever. The south-west quarter of the south-east quarter of section seven, town twenty-eight, range twenty-two west, is excepted from the provisions of this act, and shall remain a part and portion of Dakota county.

(1874, c. 101, § 1; G. S. 1878, c. 8, § 59.)

§ 597. Redwood county.

The county of Redwood is established and bounded as follows: Beginning in the centre of the channel of the Minnesota river, on the line between ranges thirty-three and thirty-four west of the fifth meridian; thence south, on said range line, to the line between towns one hundred and eight and one hundred and nine; thence west, on said township line, to the western boundary of the state; thence north, along said boundary line, to the Big Stone lake; thence, following the main channel of the Minnesota river, to the place of beginning.

(G. S. 1866, c. 8, § 55; G. S. 1878, c. 8, § 60.)

By the act of February 23, 1865 (Laws 1865, c. 71), establishing the boundaries of Redwood, Brown and Cottonwood counties, the first of those counties was bounded as follows:

Same—Present boundaries.

The boundary line of Redwood county is hereby established and shall hereafter be as follows: Beginning at the intersection of the middle line of the Minnesota river and the range line between ranges thirty-three and thirty-four; thence in a north-westerly direction on the middle line of the main channel of the Minnesota river to the western boundary line of the state of Minnesota; thence in a southerly direction on the boundary line of the state to the township line between townships one hundred and eight and one hundred and nine; thence east on said line to the range line between ranges thirty-five and thirty-six; thence north on said line to the township line between townships one hundred and nine and one hundred and ten; thence east on said line to the range line between ranges thirty-three and thirty-four; thence north on said line to the place of beginning.

(1865, c. 71, § 1; G. S. 1878, c. 8, § 60.)

This act having been duly ratified by popular vote, the boundaries therein established were the legal boundaries of Redwood county at the time of the passage of G. S. 1866, c. 8. By § 55, of that chapter, supra, township 109 of range 34 and township 109 of range 35 were transferred from Brown to Redwood county. But as this change in the lines of these counties was not submitted to popular vote, as required by Const. art. 11, § 1, in case of organized counties, § 55, supra, never became a law, and the boundaries of Redwood county remained as fixed by the act of 1865.

The following counties have been formed from the territory comprised within the foregoing boundaries of the county of Redwood:

Lyons, by Laws 1869, c. 94. See ante, § 577.

Yellow Medicine, by Laws 1871, c. 98. See post, § 619.

Lac qui Parle, by Laws 1871, c. 100. See ante, § 573.

Lincoln, by Laws 1873, c. 92. See ante, § 576.

§ 598. Renville county.

The county of Renville is established and bounded as follows: Beginning in the middle of the main channel of the Minnesota river, on the line between townships one hundred and eleven and one hundred and twelve north; thence east to the south-east corner of township one hundred and twelve north of

range thirty-two west of the fifth meridian; thence north to the north-east corner of township one hundred and fourteen north; thence west to the north-west corner of township one hundred and fourteen north, of range thirty-two west; thence north to the north-east corner of township one hundred and sixteen north; thence west to the north-west corner of township one hundred and sixteen north, of range thirty-eight west; thence south to the centre of the main channel of the Minnesota river; thence down the main channel of said river to the place of beginning; provided, that if, after the passage of this act, it shall be judicially determined that townships one hundred and fifteen, one hundred and sixteen and one hundred and seventeen, of range thirty-one, and townships one hundred and fifteen, one hundred and sixteen and one hundred and seventeen, of range thirty-two, are not a part of the county of McLeod, then and in that case the said township shall constitute a part of the county of Renville notwithstanding the provisions of this act.

(1868, c. 110, § 1; G. S. 1878, c. 8, § 61.)

By Laws 1866, c. 50, it was provided that the above mentioned towns (then forming part of the old county of Lincoln) should be transferred to McLeod county, the act to take effect upon its ratification by the electors of McLeod county. Such ratification was proclaimed by the governor on December 20, 1866. The effect of it, however, was to reduce the area of Lincoln county to six townships or only 216 square miles, in violation of Const. art 11, § 1, which forbids any reduction below 400 square miles, and therefore these townships remained in Lincoln county until, by the above section, that county was merged in Renville county.

By Laws 1870, c. 97, two of these towns, viz., 117 of range 31, and 117 of range 32, were detached from Renville county and added to Meeker county. See ante, § 581.

§ 599. Rice county.

The county of Rice is established and bounded as follows: Beginning at the south-west corner of township one hundred and nine north, of range eighteen west of the fifth meridian; thence west, on the line between towns one hundred and eight and one hundred and nine, to the line between ranges twenty-two and twenty-three; thence north, on said range line, to the township line between townships one hundred and twelve and one hundred and thirteen; thence east, on said township line, to the line between ranges twenty and twenty-one; thence south, on said range line, to the north-west corner of section thirty-one of township one hundred and twelve, in range twenty; thence east, on the section line, to the north-east corner of section thirty-six, of town one hundred and twelve, in range nineteen; thence south, on the line between ranges eighteen and nineteen, to the place of beginning.

(G. S. 1866, c. 8, § 57; G. S. 1878, c. 8, § 62.)

§ 600. Rock county.

The county of Rock is established and bounded as follows: Beginning at the intersection of the line between townships one hundred and four and one hundred and five with the western boundary of the state; thence eastwardly, on said township line, to the north-east corner of township one hundred and four, range forty-four; thence southwardly, on the line between ranges forty-three and forty-four, to the south-east corner of township one hundred and one, range forty-four; thence westerly, on the line between townships one hundred and one hundred and one, following the southern boundary of the state, to its intersection with the western boundary of the state; thence due north along said boundary to the place of beginning.

(G. S. 1866, c. 8, § 58; G. S. 1878, c. 8, § 63.)

This county was organized by Laws 1870, c. 91.

By Laws 1866, c. 45, the name of Rock county was changed to Lincoln, the act to take effect when the territory then forming the county of Lincoln should be attached to and form part of other counties. By Laws 1868, c. 110, Lincoln county was merged in Renville county (see ante, § 598), but Rock county has always retained its original name, and in 1873 a new county of Lincoln was created. See ante, § 576.

§ 601. Saint Louis county.

The county of Saint Louis is established and bounded as follows: Beginning at the southwest corner of township fifty north, of range twenty-one west of the fourth meridian; thence due north to the north boundary of the state; thence east, on the boundary line between the United States and British Possessions, to a line drawn due north from the mouth of Knife

(174)

MINNESOTA STATUTES 1894

Tit. 1]

TERRITORIAL DIVISIONS.

§§ 601-604.

river; thence south, on said line, to the boundary between Minnesota and Wisconsin in Lake Superior; thence, following said boundary line and the main channel of the St. Louis river, to the line between ranges fifteen and sixteen; thence north, on said range line, to the line between townships forty-nine and fifty; thence east (west) on said township line to the place of beginning.

(G. S. 1866, c. 8, § 59; G. S. 1878, c. 8, § 64.)

The last line in the above boundaries must necessarily run west, and not east as it is laid down in G. S. 1866.

§ 602. Scott county.

The county of Scott is established and bounded as follows: Beginning at the north-east corner of township one hundred and twelve north, in range twenty-one west of the fifth meridian; thence west, on the township line between townships one hundred and twelve and one hundred and thirteen, to the middle of the main channel of the Minnesota river; thence down said channel to the mouth of Credit river; thence in a direct line to the place of beginning.

(G. S. 1866, c. 8, § 60; G. S. 1878, c. 8, § 65.)

The eastern line of Scott county was altered by Laws 1871, c. 97, changing the boundary between Scott and Dakota counties. See ante, § 556.

§ 603. Sherburne county.

The county of Sherburne is established and bounded as follows: Beginning in the centre of the main channel of the Mississippi river, on the line between townships thirty-five and thirty-six; thence east, on said township line, to the line between ranges twenty-five and twenty-six; thence south, on said range line, to the centre of the main channel of the Mississippi river; thence up said channel to the place of beginning.

(G. S. 1866, c. 8, § 61; G. S. 1878, c. 8, § 66.)

The transfer of territory to Stearns county proposed by Laws 1889, c. 169, was defeated by popular vote.

§ 604. Sibley county.

The county of Sibley is established and bounded as follows: Beginning in the centre of the main channel of the Minnesota river, on the line between townships one hundred and eleven and one hundred and twelve; thence west, on said township line, to the line between ranges thirty-one and thirty-two; thence north, on said range line, to the line between townships one hundred and fourteen and one hundred and fifteen; thence east, on said township line, to the line between ranges thirty and thirty-one; thence south, on said range line, to the line between townships one hundred and thirteen and one hundred and fourteen; thence east, on said township line, to the line between ranges twenty-eight and twenty-nine; thence north, on said range line, to the line between townships one hundred and fourteen and one hundred and fifteen; thence east, on said township line, to the line between ranges twenty-five and twenty-six; thence south, on said range line, to the north-west corner of section nineteen, of township one hundred and fourteen, of range twenty-five; thence east, on the section line, to the north-east corner of section twenty-four in said township; thence south, on the east line of said township, to the centre of the main channel of the Minnesota river; thence up said channel to the line between townships one hundred and twelve and one hundred and thirteen; thence east, on said township line, to the north-west corner of town one hundred and twelve of range twenty-six; thence south, on the east line of said town, to its intersection with the main channel of the Minnesota river; thence, following said channel to its next intersection with said line; thence following said line to its third intersection with said channel, on the east side of section twelve in said town; thence up said channel to the line between sections twenty-four and twenty-five in said town; thence west to the north-west corner of said section twenty-five; thence south on the west line of said section, to the quarter post; thence west, on the quarter line of section twenty-six in said town, to the section line between said section twenty-six and section twenty-seven; thence south, on said

* This should read "north-east" instead of "north-west."

MINNESOTA STATUTES 1894

§§ 604-606

COUNTIES AND COUNTY OFFICERS.

[Ch. 8

section line, to the middle of the main channel of the Minnesota river; thence up said channel to the place of beginning.

(G. S. 1866, c. 8, § 62; G. S. 1878, c. 8, § 67.)

Same—Annexation of part of Scott county.

That all parts of section number twenty-five, south half of section number twenty-six, and section thirty-five of township one hundred and twelve north, of range twenty-six west, lying and being on the west side of the Minnesota river, be and the same is hereby annexed to the county of Sibley.

(1893, c. 159, § 1.)

§§ 2, 3, and 4 relate to submitting the proposed change to popular vote in Sibley county. The act does not provide for submitting the proposed change to popular vote in Le Sueur county, from which county the territory is to be taken, and therefore fails to comply with the requirements of § 1, art. 11, of the Constitution.

§ 605. Stearns county.

The county of Stearns is established and bounded as follows: Beginning in the centre of the main channel of the Mississippi river, opposite the mouth of Clearwater river; thence, up the middle of the main channel of said Clearwater river, to the line between ranges twenty-eight and twenty-nine west of the principal meridian; thence south, to the north-east corner of section twenty-four, of town one hundred and twenty-one, of range twenty-nine; thence west, on the section line, to the south-west corner of section eighteen in said town; thence north, on the west line of said town, to the north-west corner of said town; thence west, on the line between townships one hundred and twenty-one and one hundred and twenty-two, to the line between ranges thirty-two and thirty-three; thence north, on said range line to the line between towns one hundred and twenty-two and one hundred and twenty-three; thence west, on said township line, to the line between ranges thirty-five and thirty-six; thence north, on said range line, to the north-west corner of section thirty of town one hundred and twenty-seven, in range thirty-five; thence east, on the section line, to the centre of the main channel of the Mississippi river, nearly opposite the mouth of Platte river; thence, down the centre of said channel, to the place of beginning.

(G. S. 1866, c. 8, § 63; G. S. 1878, c. 8, § 68.)

By Law: 1870, c. 98, § 1, changing the boundary between Stearns and Todd and Morrison counties, certain territory was transferred from Stearns to Morrison county. See ante, § 583.

Same—Northern boundary.

That the boundary line between the counties of Stearns and Todd in this state is hereby established and designated as follows: Commencing at the south-west corner of section number thirty, township number one hundred and twenty-seven north, of range number thirty-five west of the fifth principal meridian; thence due east, on the section line running east and west, to the south-east corner of section number twenty-five, township number one hundred and twenty-seven north of range number thirty-two west of the meridian aforesaid; and the boundary line between the said counties of Stearns and Todd is hereby declared to be so [as] designated in this section.

(1874, c. 102, § 1; G. S. 1878, c. 8, § 68.)

The transfer of territory from Sherburne county proposed by Laws 1889, c. 169, was defeated by popular vote.

§ 606. Steele county.

The county of Steele is established and bounded as follows: Beginning at the south-east corner of town one hundred and five north, of range nineteen west of the fifth principal meridian; thence west, on the line between townships one hundred and four and one hundred and five, to the line between ranges twenty-one and twenty-two; thence north on said range line to the line between townships one hundred and eight and one hundred and nine; thence east on said township line to the line between ranges eighteen and nineteen; thence south on said range line to the place of beginning.

(G. S. 1866, c. 8, § 64; G. S. 1878, c. 8, § 69.)

§ 607. Stevens county.

The county of Stevens is established and bounded as follows: Beginning at the north-east corner of township one hundred and twenty-six north, of range forty-one west, of the fifth principal meridian; thence west to the north-west corner of township one hundred and twenty-six north, of range forty-four west; thence south to the south-west corner of township one hundred and twenty-three north of range forty-four west; thence east to the south-east corner of township one hundred and twenty-three north, of range forty-one west; thence to the place of beginning.

(1868, c. 109, § 1; G. S. 1878, c. 8, § 70.)

This county is recognized as organized in Sp. Laws 1872, c. 89, and by Laws 1881, c. 129.

§ 608. Swift county.

The boundary lines of Swift county are hereby established and hereafter shall be as follows: Beginning at the north-east corner of township number one hundred and twenty-two north, of range number thirty-seven west of the fifth principal meridian; thence west to the north-west corner of township number one hundred and twenty-two north, of range number forty-three west; thence south to the centre of the main channel of the Minnesota river; thence in a south-easterly direction, along the main channel of said river, to the intersection of the township line between townships one hundred and nineteen and one hundred and twenty; thence east, along said township line, to the south-east corner of township number one hundred and twenty, range number thirty-seven; thence north to the point of beginning.

(1870, c. 90, § 1; G. S. 1878, c. 8, § 71.)

This county was formed out of Chippewa county by the act above cited, which recognizes it as organized.

§ 609. Todd county.

The county of Todd is established and bounded as follows: Beginning in the centre of the main channel of Crow Wing river, where said river is crossed by the range line between townships one hundred and thirty-three north, of range thirty-one and thirty-two west; thence up said channel to the range* line between townships one hundred and thirty-three and one hundred and thirty-four north of range thirty-two west; thence west on said range* line to the north-west corner of townships one hundred and thirty-three north, of range thirty-five west; thence south on the range line between townships one hundred and thirty-three north, of ranges thirty-five and thirty-six west, following the range line to a point directly west of the middle of the main channel of the Mississippi river opposite the mouth of Platte river; thence east to the range line between townships one hundred and twenty-seven north, of ranges thirty-two and thirty-one west; thence north, following said range line to the place of beginning.

(1867, c. 116, § 2; G. S. 1878, c. 8, § 72.)

*This should read "township."

The southern boundary line of Todd county was changed by Laws 1874, c. 102. See ante, § 605.

§ 610. Traverse county.

That the county of Traverse in this state, which is hereby declared to be embraced within the following boundaries, to-wit: Beginning in the center of the channel of the Bois des Sioux river, at the intersection of the line between townships one hundred and twenty-nine and one hundred and thirty; thence easterly on said township line to the north-east corner of said township one hundred and twenty-nine north, range forty-five west; thence southerly on the line between ranges forty-four and forty-five to the south-east corner of township one hundred and twenty-five, range forty-five; thence westwardly on the line between townships one hundred and twenty-four and one hundred and twenty-five, to the western boundary of the state; thence on said boundary line, passing through Lake Traverse and along the Bois des Sioux river to the place of beginning,—be and the same is hereby declared to be an or-

MINNESOTA STATUTES 1894

§§ 610-613

COUNTIES AND COUNTY OFFICERS.

[Ch. 8

ganized county, with all the rights, privileges, and immunities of other organized counties within this state. The county-seat shall be located at Brown's Valley until the next general election.

(1881, c. 130, § 1; G. S. 1878, v. 2, c. 8, § 73a.)

§ 2 provides for submission to popular vote of question of removal of county seat.

Proclamation by governor issued November 30, 1881, declaring change of county seat to Mandada carried.

§ 6 repeals all inconsistent acts.

§ 611. Wabasha county.

The county of Wabasha is established and bounded as follows: Beginning at the south-east corner of town one hundred and eight north, of range eleven west from the fifth principal meridian; thence west, on the line between towns one hundred and seven and one hundred and eight, to the line between ranges twelve and thirteen; thence north, on said range line, to the line between townships one hundred and eight and one hundred and nine; thence west, on said township line, to the line between ranges fourteen and fifteen; thence north, on said range line, to the line between townships one hundred and fourteen* and one hundred and fifteen;† thence east, on said township line, to the line between ranges thirteen and fourteen; thence north, on said range line, to the line between townships one hundred and fifteen‡ and one hundred and sixteen; ** thence east, on said township line, to the centre of Lake Pepin; thence, down the middle of said lake and of the main channel of the Mississippi river, to the line between townships one hundred and eight and one hundred and nine; thence west, on said township line, to the line between ranges ten and eleven; thence south, on said range line, to the place of beginning.

(G. S. 1866, c. 8, § 68; G. S. 1878, c. 8, § 74.)

*This should read "ten" instead of "fourteen."

†This should read "eleven" instead of "fifteen."

‡This should read "eleven" instead of "fifteen."

**This should read "twelve" instead of "sixteen."

For these corrections, see Pub. St. c. 1, §§ 48, 61, 80 and 83, by which the limits of Wabasha county at the time of the passage of the G. S. 1866 are defined. If the change in the G. S. 1866 were intentional, and not the result of a mere clerical error, still it did not affect the then existing boundaries of the county, not having been ratified by popular vote, as required by Const. art. 11, § 1.

§ 612. Wadena county.

The county of Wadena is established and bounded as follows: Beginning at the south-west corner of township one hundred and thirty-four north, of range thirty-five west of the fifth principal meridian; thence north, on the line between ranges thirty-five and thirty-six, to the north-west corner of town one hundred and thirty-eight of range thirty-five; thence east, on the line between townships one hundred and thirty-eight and one hundred and thirty-nine, to the north-east corner of town one hundred and thirty-eight of range thirty-three; thence south, on the line between ranges thirty-two and thirty-three, to the south-east corner of town one hundred and thirty-four of range thirty-three; thence west, on the line between townships one hundred and thirty-three and one hundred and thirty-four, to the place of beginning.

(G. S. 1866, c. 8, § 69; G. S. 1878, c. 8, § 75.)

This county was organized by Laws 1873, c. 97.

The transfer of territory from Cass county, proposed by Laws 1883, c. 79, was defeated by popular vote.

§ 613. Waseca county.

The county of Waseca is established and bounded as follows: Beginning at the south-west corner of town one hundred and five, of range twenty-one west of the fifth meridian; thence west, on the line between towns one hundred and four and one hundred and five, to the south-west corner of town one hundred and five of range twenty-four; thence north, on the line between ranges twenty-four and twenty-five, to the north-west corner of town one

MINNESOTA STATUTES 1894

Tit. 1]

TERRITORIAL DIVISIONS.

§§ 613-618

hundred and eight of range twenty-four; thence west,* on the line between townships one hundred and eight and one hundred and nine, to the north-east corner of town one hundred and eight of range twenty-two; thence south, on the line between ranges twenty-one and twenty-two, to the place of beginning.

(G. S. 1866, c. 8, § 70; G. S. 1878, c. 8, § 76.)

*The third course in the above boundaries must necessarily run east, and not west, as printed in G. S. 1:66.

§ 614. Washington county.

The county of Washington is established and bounded as follows: Beginning in the middle of the main channel of the Mississippi river, on the line between sections twenty-three and twenty-six, of town twenty-eight north, in range twenty-two west; thence east, on said section line, to the line between ranges twenty-one and twenty-two; thence north, on said range line, to the line between townships thirty-two and thirty-three; thence east, on said township line, to the centre of the main channel of the St. Croix river; thence, down the middle of said channel, and of St. Croix lake, to the Mississippi river; thence, up the middle of the channel of said Mississippi river, to the place of beginning.

(G. S. 1866, c. 8, § 71; G. S. 1878, c. 8, § 77.)

§ 615. Watonwan county.

The county of Watonwan is established and bounded as follows: Beginning at the north-east corner of town one hundred and seven, of range thirty west of the fifth meridian; thence west, on the line between townships one hundred and seven and one hundred and eight, to the line between ranges thirty-three and thirty-four; thence south, on said range line, to the line between townships one hundred and four and one hundred and five; thence east, on said township line, to the line between ranges twenty-nine and thirty; thence north, on said range line, to the place of beginning.

(G. S. 1866, c. 8, § 72; G. S. 1878, c. 8, § 78.)

§ 616. Wilkin county.

That so much of the county of Wilkin as is embraced in the following described territory, to wit: commencing at the north-east corner of township 136 of range 45 west; running thence west, on the town line between 136 and 137, to the state line; thence in a southerly direction, along the west line of the state of Minnesota, to the town line between 129 and 130; thence east, on said town line, to the south-east corner of township 130 of range 45 west; thence north, on the range line between ranges 44 and 45, to the place of beginning, is hereby declared to be an organized county, with all the rights, privileges and immunities of other organized counties within this state.

(1872, c. 83, § 1; G. S. 1878, c. 8, § 79.)

The foregoing description includes all of the county called Andy Johnson in the General Statutes 1866 (the name of which was changed to Wilkin by Laws 1868, c. 115), except towns 131 to 136, both inclusive, of range 44, transferred to Otter Tail by Laws 1872, c. 87, and town 130 of range 44, transferred to the new county of Grant by Laws 1868, c. 109. See ante, §§ 568 and 590.

§ 617. Winona county.

The county of Winona is established and bounded as follows: Beginning at the south-west corner of township one hundred and five north, of range ten west; thence north, on the line between ranges ten and eleven, to the line between townships one hundred and eight and one hundred and nine; thence east, on said township line, to the centre of the main channel of the Mississippi river; thence, down along the middle of said channel, to the line between townships one hundred and four and one hundred and five; thence west, on said township line, to the place of beginning.

(G. S. 1866, c. 8, § 73; G. S. 1878, c. 8, § 80.)

§ 618. Wright county.

The county of Wright is established and bounded as follows: Beginning at the most northern intersection of the Clearwater river with the line between ranges twenty-eight and twenty-nine; thence south, on said range line,

MINNESOTA STATUTES 1894

§§ 618-621

COUNTIES AND COUNTY OFFICERS.

[Ch. 8

to the line between townships one hundred and seventeen and one hundred and eighteen; thence east, on said township line, to the line between ranges twenty-four and twenty-five; thence north, on said range line, to the centre of the main channel of the south branch of Crow river; thence, down the middle of said channel and of the main channel of Crow river, to the Mississippi river; thence, up the middle of the main channel of the Mississippi river and of the Clearwater river, to the place of beginning.

(G. S. 1836, c. 8, § 74; G. S. 1878, c. 8, § 81.)

As to the boundary between this county and Hennepin county, see *Guilder v. Town of Otsego*, 20 Minn. 74, 77, (Gil. 59, 63.)

§ 619. Yellow Medicine county.

The county of Yellow Medicine is hereby established, and the boundary lines thereof shall be as follows: Commencing at the intersection of the middle line of the Minnesota river with the range line between ranges thirty-seven and thirty-eight; thence in a northwesterly direction, along the middle line of said river, to the intersection thereof with the range line between ranges forty and forty-one; thence south, along the range line between ranges forty and forty-one, to the township line between townships one hundred sixteen and one hundred and seventeen; thence west, along the township line between towns one hundred sixteen and one hundred seventeen, to the range line between ranges forty-one and forty-two; thence south, along the range line between ranges forty-one and forty-two, to the township line between townships one hundred fifteen and one hundred sixteen; thence west, along the township line between townships one hundred fifteen and one hundred sixteen, to the western boundary of the state; thence south, along the western boundary of the state, to the township line between townships one hundred thirteen and one hundred fourteen; thence east, along the township line between [townships] one hundred thirteen and one hundred fourteen, to the range line between ranges thirty-nine and forty; thence south, along the range line between ranges thirty-nine and forty, to the township line between townships one hundred twelve and one hundred thirteen; thence east, along the township line between townships one hundred twelve and one hundred thirteen, to the range line between ranges thirty-seven and thirty-eight; thence north, along the range line between ranges thirty-seven and thirty-eight, to the place of beginning.

(G. S. 1878, c. 8, § 82.)

This county was formed and organized by Laws 1871, c. 98, from territory formerly included in Redwood county.

§ 620. Change of boundary in unorganized counties.

That the county line of any unorganized county in this state shall not be changed or the territory of such unorganized county be annexed in part or in whole to any organized county as a part of such organized county without first submitting the proposition for such change of line or annexation to the electors of the county or counties to be affected thereby, to be voted upon at the next general election after permission is granted therefor, and the same must be adopted by the majority of the electors voting therein in each county affected thereby.

(1887, c. 119; G. S. 1878, v. 2, c. 8, § 82a.)

See *State v. Archibald*, cited in note to § 555, ante.

TITLE 2.

ORGANIZATION, POWERS,² AND DUTIES.

§ 621. New counties.

New counties may be created out of territory to be detached from one or more of the counties already organized, and the boundaries of such organized

² For act authorizing counties to aid in the construction of canals, see post, § 1441.

(180)

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97 - 99

620-623
97 - 308

620
99 - 32

620-629
64-M - 378
66-M - 519

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69-M - 202
71-NW 933

621-637
66-M - 536

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MINNESOTA STATUTES 1894

Tit. 2]

ORGANIZATION, POWERS, AND DUTIES.

§§ 621-623

counties may be thereby changed, as hereinafter provided. But no new county so created shall contain less than four hundred square miles nor less than two thousand inhabitants; and no existing county shall, by the creation of any new county, be reduced in area to less than four hundred square miles nor so as to contain a population of less than two thousand inhabitants.

(1893, c. 143, § 1.)*

§ 622. Same—Petition—Procedure.

Whenever there shall be presented to the secretary of state, not less than ninety days before the next succeeding general election, the petition of not less than fifteen per cent. of the legal voters of each of the counties to be changed thereby according to the vote of said county or counties at the last preceding election, praying that certain territory shall be detached from any county or counties, and erected, created and organized into a new county, which petition shall contain what is hereinafter required, and have attached thereto the affidavit of the person or persons who procured the signatures to such petition, to the effect that the signers were, when they signed the same, actual residents and legal voters of the county that they, in such petition, represented themselves to be; said secretary of state shall at once file the same, and immediately notify the governor and state auditor of the receipt of the same, and they shall immediately meet and consider said petition, and if it is found to conform to law they, or a majority of them, shall so certify, and thereupon the governor shall, not less than sixty days before the next general election, issue his proclamation, attested by the secretary of state, declaring that such petition has been so filed and found to be conformable to law, and directing that the question of the creation of the proposed new county be submitted to the voters of the county or counties to be affected thereby, as provided by law, at the next succeeding general election; and upon the issuance of said proclamation the secretary of state shall record such petition and affidavit thereto attached, and certificate and proclamation, in his office, in a book to be provided by him for such purpose, and he shall cause a copy of such proclamation to be published in two of the daily newspapers in the capital city and in a newspaper printed and published at the county seat of the county or counties from which such new county is proposed to be created and having general circulation therein, at least four successive weeks before the general election at which such question is to be submitted; and he shall mail a certified copy of that proclamation to the auditor of the county or counties affected by such proposed new county. Where it is proposed to create a new county out of a portion of the territory of more than one county, it shall be necessary for separate petitions to be presented by the citizens of each of the counties from which such proposed new county is to be created. A copy of said petition so filed with the secretary of state shall also immediately thereafter be filed in the office of the county auditor of the county or counties out of which such new county is proposed to be created.

(Id. § 2.)

§ 623. Same—Form of petition.

Such petition shall propose and specify (1) the territory which is to constitute the proposed new county and the boundaries thereof, the boundary lines of which shall be the United States government survey lines of townships, sections or subdivisions thereof, or the centre of the main channel of any meandered stream or the shore of any meandered lake, as may be necessary; (2) the name of the proposed new county; (3) the place and location which shall be the county seat of the same until changed as provided by law; (4) the names of five persons residing in different townships thereof, who shall be the first board of county commissioners; and such petition may be in the following form:

To the Secretary of State of the State of Minnesota:

The undersigned legal voters of the county of (here insert name of county) pray that a new county may be created and be composed of the territory

* An act to provide for the creation and organization of new counties and government of the same. Approved April 1, 1893.

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within the following boundaries, to wit: (Here insert boundaries of proposed new county); and that (here insert name of village, borough, city or other place proposed) be the county seat thereof; and that (here insert name and residence of the five legal voters proposed) be and constitute the first board of county commissioners of said proposed county. These petitioners therefore pray that the proceedings required by law to organize said proposed county be had and complied with. Dated this _____ day of _____, A. D. 18—.

(Here add names of signers.)

(Id. § 3.)

§ 624. Same—Notice of election—Ballots.

At the time of giving notice of the next general election to be held after the issuing of the said proclamation by the governor, it shall be the duty of the officers of the county or counties affected thereby, who are required to give notice of the election of officers therein, to give notice in like manner, that at said election a vote will be taken on the question of the creation of the proposed new county, or counties, stating and specifying in said notice the boundaries of said proposed county; the proposed location of the county seat and the name of such proposed county; and the ballots for such general election shall, for each pending proposition of the kind, have printed thereon the words: "For the creation and organization of the proposed new county of (here insert name of proposed county), yes—no;" and each elector voting on such proposition or propositions to create and establish such new county or counties shall mark a cross opposite the "yes" or "no" as provided in section thirty-four of chapter four of the general laws of 1891.

(Id. § 4.)

§ 625. Same—Special inspectors of election.

It shall be lawful for the board or council of the municipality named in such petition as the county seat of the proposed county or counties or of the county seat of the county or counties to be affected, and they are respectively hereby authorized to appoint, by certificate under their hand, a proper person or persons, not exceeding three, to attend upon such of the city, township or village boards and judges of election of any of said counties as they may deem necessary; who shall have authority, and whose duty it shall be to witness the action of said township and village boards or judges of election, in receiving and preparing the register of the legal voters in either of the election districts of said county for the general election at which said proposition or propositions is to be voted upon and in conducting such election in either of the election districts. Said person or persons so appointed shall be sworn, and it shall be their duty to see that none but legal voters of the county are registered and allowed to vote at any of the several election districts of the county, and to use all lawful means in their power to prevent fraud and deceit thereat, and to cause to be prosecuted any and all persons found guilty of any fraud or deceit at any of such election districts. And it is hereby made the duty of the officers or judges of election of such election districts to allow such persons so appointed to be present at the making of such registry lists, or the holding of such elections, and to afford them all proper facilities to freely and fully witness the same and the canvass of the votes cast thereat and the preparation and sealing of the official returns thereof, and to make and deliver them an abstract of the vote on any such proposition if so desired.

(Id. § 5.)

§ 626. Same—Duty of judges of election.

It shall be the duty of the judges of election in each election district or precinct of the county or counties where any such proposition is voted upon, to canvass, record and return the vote cast upon any such proposition in the same manner as votes cast at the general election are required to be canvassed, certified, recorded and returned by them, and to also, within five days, certify and return by registered letter to the secretary of state the number of votes cast for and against each proposition to create new counties that was voted upon in that district or precinct at that election.

(Id. § 6.)

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§ 627. Canvass of votes—Returns to secretary of state.

Such returns of the votes upon any and all such propositions to create new counties shall be canvassed by the county canvassing board of the proper county in the same manner as the votes for state officers are required to be canvassed, and a statement of the votes given for and against each of such propositions, giving the vote of each election district or precinct in the county thereon, shall be made, signed and certified, and transmitted to the secretary of state in the same manner as is required by general law, as to the votes cast for and against state officers in the several counties of the state.

(Id. § 7.)

§ 628. Same—Canvass of votes—Proclamation.

All such returns of votes on any such proposition shall be canvassed by the state canvassing board at the same time that they canvass the votes for state, congressional or other officers cast at the same election; and such state canvassing board shall make and file with the secretary of state their separate certificate declaring the result of the vote in each case and upon each and every such proposition to create any new county or counties. In case all such returns have not been received from the proper county canvassing board, the state canvassing board may use the returns received from the judges of election of the election districts of the county which has not reported; but the proper county officers may notwithstanding be compelled to make return as herein required. Upon the making and filing of any such certificate to the effect that any such proposition has received a majority of the votes cast thereon in each county to be affected thereby it shall be the duty of the governor to, within ten days thereafter, issue his proclamation announcing that such proposition has received such a majority of the votes and declaring such proposition adopted; and the secretary of state shall cause such proclamation to be published for three successive weeks in two of the daily papers at the capital city of the state and transmit a certified copy thereof to the county auditor of the county or counties out of which said new county has been erected, who shall cause the same to be published three weeks in the official paper of the county, and to each of the persons elected as county commissioners in such new county. The secretary of state shall also file and record in his office in said book of such records the certificate of the state canvassing board, certifying that such proposition received a majority of the votes cast, together with the proclamation of the governor declaring the same to have been adopted; and a duly certified copy of this proclamation shall in all cases be received as full evidence of the legal and valid organization and existence of such county.

(Id. § 8.)

§ 629. Same—Effect of proclamation.

Upon the issuance of such proclamation by the governor declaring any such proposition to create a new county adopted, the new county named therein shall become and be one of the duly organized counties of this state; but the territory of the same for judicial purposes and the enforcement of the laws against crime, shall be deemed to belong to and be the territory of the county from which the same was detached until the officers of such new county have been elected, appointed and qualified as hereinafter provided.

(Id. § 9.)

§ 630. Same—County commissioners.

Immediately after the receipt of such certified copies of the proclamation of the governor declaring such proposition to create such new county adopted, the said persons so chosen as the first board of commissioners thereof, or a majority, shall meet at the place named as the county seat of such new county and qualify as the first board of county commissioners of such new county as provided by the general laws relating to county commissioners; and when so qualified said persons shall become and possess all the powers of county commissioners, as provided by the general laws of this state relating thereto. The said board of county commissioners when so qualified shall proceed at once to provide offices for county officers and furnish the same with proper furniture and stationery, and to elect by a majority vote thereof, beginning with the county auditor, all the county officers of said county

MINNESOTA STATUTES 1894

§§ 630-633

COUNTIES AND COUNTY OFFICERS.

[Ch. 8

which are required by the general laws of the state; and such persons so elected as such county officers shall qualify as such as required by the general laws of the state relating thereto, and such officers when so elected and qualified shall possess all the authority and power conferred by the general law upon such officers, and shall hold their offices until their successors are elected or appointed and qualified as provided by general law. Said first board of county commissioners shall at their first meeting elect one of their number as clerk thereof to act as such until a county auditor is elected and qualified, as in this section provided.

(Id. § 10.)

§ 631. Same—Organized townships—School and road districts.

All organized and existing townships and school and road districts, the whole of which are included in the territory of any new county created and organized as herein provided, shall continue to be organized townships, school and road districts, and become and be a part of such new county; and the officers thereof shall continue to be such and shall hold their offices until their successors are elected, appointed or qualified, as the case may be; and all such townships, school and road districts, and the officers thereof, shall be subject to all general laws relating to the townships and such districts of the new county of which they have become a part. In case the boundary lines of any such new county shall divide any organized township, school or road district all such fractions of former townships shall be deemed to be unorganized territory, and it shall be the duty of the county commissioners of the county in which any such fractions are situated to attach such fractional parts of former townships to such adjoining townships in their county as they may determine to be best, and to continue such divided school district as a part of both counties, or attach the same to another district in the county, or create it a new district, as a majority of the resident voters thereof may petition, and they decide to be for the best interests of the people to be affected thereby.

(Id. § 11.)

§ 632. Same—Transcribing records.

It shall be the duty of the register of deeds of any such new county, immediately after his so qualifying, to transcribe and copy into the records of his office from the records of the county where the same was formerly situate, all the records in the office of the register of deeds of that county, pertaining to all the property which has been detached therefrom and made a part of such new county, and he shall receive for such transcribing from such new county the sum of six cents per folio; and such records of such new county when so made shall be the legal records thereof and shall have the same effect in law as though the original instruments had been recorded in such register of deed's office of the county, and the same or certified copies thereof may be read in evidence in any court or before any tribunal as such records. If any such register of deeds shall neglect or fail to so transcribe such records the same may be done by his successor in office. In case it shall be deemed necessary by the board of county commissioners of such new county to do so, the county auditor of such new county shall copy and transcribe from the records of the county auditor's office of the county from which the same was detached, relating to such new county or to any of the townships, school districts or road districts which have become wholly or in part a part of such new county, and for such transcribing such county auditor shall also receive six cents per folio. The officers of the county from which such records are to be so transcribed shall furnish the officers of such new counties all reasonable and proper facilities to enable them to so copy and transcribe such records.

(Id. § 12.)

§ 633. Same—Collection and levy of taxes.

The creation of any new county, as hereinbefore provided, shall not affect in any manner the collection of any unpaid tax upon any property within the territory of such new county, for the current expenses of the county from which the same was detached, or for township, school, road or other

MINNESOTA STATUTES 1894

Tit. 2]

ORGANIZATION, POWERS, AND DUTIES.

§§ 633-635

local taxes, or for any special tax levied prior to the filing of the copy of the petition for the formation of such new county in the office of the county auditor, as provided in section two of this act; and all such unpaid taxes shall be collected and payment thereof enforced by the officers of such county in the same manner and with the same effect as if the territory of such new county had remained and continued a part of the county from which the same was detached; and any and all moneys then remaining in or afterwards coming into the treasury of the county from which the same was detached or into the possession of any officer of such county belonging to any town or school or road district so made a part of such new county, shall be apportioned and paid over to such town or district in the same manner as should have been had the town or district remained within and a part of the county from which the same had been detached. But no tax shall be levied upon any of the property within the limits of any proposed new county after a copy of the petition filed with the secretary of state has been filed with the county auditor of the county as provided in section two for any indebtedness incurred after the filing of such copy petition, or for buildings or improvements made outside the limits of such new county except as hereinafter provided.

(Id. § 13.)

§ 634. Same—County indebtedness—Appraisal of county buildings.

When there is any bonded or other floating county indebtedness outstanding against any county out of which any such new county has been wholly or in part created, the same shall be paid by such old and new counties in proportion to their respective valuations (as shown by the last general assessment) of their portions of the property of the county or counties out of which such new county was created. Provided: That in case any such county, out of which any new county has been in whole or in part created, possesses county buildings erected by the county, the same shall be appraised and the present value thereof to the county in which such buildings are situated shall be ascertained as hereinafter provided, and such appraised value of said buildings shall be deducted from the amount of said bonded or floating indebtedness to be so apportioned, and the remainder of such indebtedness shall only be so apportioned between the several counties; and the amount of said remaining indebtedness (and which equals and represents the said appraised value of said county buildings) shall not be so apportioned among such several counties, but shall be wholly paid by the county which has and retains such county buildings. Such county buildings shall be appraised and their present value fixed and determined by three wholly disinterested persons, who shall be appointed by the governor; neither of whom shall be residents of or owners of taxable property in either of the counties interested, and who shall take an oath to honestly and impartially appraise and determine the present value of such county buildings, and they shall file their oath with the secretary of state; and when they have made their appraisal they shall state and certify to the same in writing over their respective signatures, and make and sign and file with the auditor of each of such counties one of said certificates of appraisal; and such appraisal, when so made and certified to, shall be final and conclusive and such certificate shall be such evidence of the same. In making such appraisal said appraisers shall consider the cost of such county buildings and allow for subsequent wear and depreciation thereof and determine the present value thereof to the county.

(Id. § 14.)

§ 635. Same—County bonds—Payment and issue.

The county commissioners of any such new county shall make provision for the payment of any such bonded or floating indebtedness by levy and taxation at the time fixed by law for so doing, and in the same manner as the county commissioners of the parent county or counties should have done; and for the purpose of meeting its proportion of such indebtedness which may become due before the same can be raised by levy and taxation, and for the purpose of providing necessary record books, furniture for county offices,

635

95 - 278
97 - 295

MINNESOTA STATUTES 1894

§§ 635-639

COUNTIES AND COUNTY OFFICERS.

[Ch. 8

official seals and other necessary county expenses, the county commissioners of such new counties are hereby authorized, after they have fully organized as herein provided, to issue the bonds of their respective counties, not exceeding in amount the sum of ten thousand dollars, to run for a period of not more than ten years, and bearing interest at the rate of not more than seven per cent per annum.

(Id. § 15.)

§ 636. Same—Terms of district court.

General terms of the district court shall be held in such new counties (until the time for holding the same is fixed by law) at such times in the year as shall be fixed by the judge of the judicial district in which the same may be situate.

(Id. § 16.)

§ 637. Penalty for officer refusing to act.

No failure or refusal of any county officer to do any of the acts or things herein required of him to be done, or of the failure to make publication as herein required, shall affect the validity of the establishment of any such new county; and any officer who shall willfully neglect or refuse to perform the duties herein required of him shall be guilty of malfeasance in office, and may be removed therefor.

(Id. § 17.)

§ 638. Powers of counties.

Each organized county within this state is a body politic and corporate, and, as such, empowered to act for the following purposes:

First. To sue and be sued.

Second. To purchase and hold real and personal estate for the use of the county, and lands sold for taxes, as provided by law, and to purchase and hold, for the benefit of the county, real estate sold by virtue of judicial proceedings in which the county is plaintiff.

Third. To sell and convey any real and personal estate owned by the county, and make such order respecting the same as may be deemed conducive to the interests of the inhabitants.

Fourth. To make all contracts, and do all other acts in relation to the property and concerns of the county, necessary to the exercise of its corporate powers.

(G. S. 1866, c. 8, § 75; G. S. 1878, c. 8, § 83.)

There is nothing in this section or in §§ 642 and 646, post, respecting the mode of suing and serving process on counties, limiting them to any class of actions, or indicating an exception to the ordinary remedy by action, in favor of suitors, but all the provisions are general in their character, and applicable to any action against a county. *Murphy v. County of Steele*, 14 Minn. 67, 69, (Gil. 51, 52.) See, also, *Commissioners Mower Co. v. Smith*, 22 Minn. 97, 108.

Action by county against treasurer for conversion of public lands—What may be recovered. *Commissioners Mower Co. v. Smith*, 22 Minn. 97.

A county has no capacity to become purchaser of real estate sold on execution in its favor where the purchase is not made for the public use of the county. *Williams v. Lash*, 8 Minn. 496, (Gil. 441; followed in *Shelley v. Lash*, 14 Minn. 498, (Gil. 373.)) A county may acquire title to land by taking the same in satisfaction of a lawful claim against its debtor. *Shepard v. County of Murray*, 33 Minn. 519, 24 N. W. Rep. 291. Limitations on right of county to acquire, use, and dispose of property. *State v. Foley*, 30 Minn. 350, 15 N. W. Rep. 375. What deed will convey fee-simple to a county. *McKusick v. County of Washington*, 16 Minn. 151, (Gil. 135.)

County cannot erect or improve buildings for the use of other municipal corporations, nor bind itself by contract to hold real estate for the benefit of third parties. *Borough of Henderson v. County of Sibley*, 28 Minn. 515, 11 N. W. Rep. 91.

A county has not power, unless expressly authorized by law, to take a bond for the security of third persons. *Breen v. Kelly*, 45 Minn. 352, 47 N. W. Rep. 1067.

§ 639. May hold real estate.

All real and personal estate conveyed by any form of conveyance, to any county, or the inhabitants thereof, or to any person for the use and benefit thereof, or its inhabitants, shall be deemed to be the property of such county; and all such conveyances have the same force and effect as if they were made to the inhabitants of such county by their corporate name.

(G. S. 1866, c. 8, § 76; G. S. 1878, c. 8, § 84.)

638	
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67-NW	202
68-NW	767
638	
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69-M	297
69-M	336
75-NW	745
638	
74-M	28
77-M	92
638	
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89-M	69

MINNESOTA STATUTES 1894

Tit. 2]

ORGANIZATION, POWERS, AND DUTIES.

§§ 640-644

§ 640. Powers, how exercised.

The powers of the county as a body politic and corporate, can only be exercised by the board of commissioners thereof, or in pursuance of a resolution by them adopted. (G. S. 1866, c. 8, § 77; G. S. 1878, c. 8, § 85.)

See Rogers v. Board of Com'rs, 59 N. W. Rep. 488.

§ 641. Counties to provide buildings.

Each county organized for judicial purposes shall provide at the county seat a suitable court house, and a suitable and sufficient jail, and fire-proof offices, and other necessary buildings, and keep the same in good repair.

(G. S. 1866, c. 8, § 78, as amended 1870, c. 44, § 1; G. S. 1878, c. 8, § 86.)

See note to § 638, supra. See, also, Rogers v. Board of Com'rs, 59 N. W. Rep. 488.

§ 642. Suits against counties—Service of process—Jurors and witnesses.

When any action is commenced against a county, the process shall be served on the clerk of the board of county commissioners, either during a session of the board, or so that a session shall be held at least ten days before the return day of such process; and the said clerk shall forthwith notify the county attorney for said county, and lay before the board of commissioners, at their next annual meeting, all the information he may have in regard to such action. The inhabitants of a county, suing or being sued, may be jurors or witnesses, if otherwise competent or qualified according to law.

(G. S. 1866, c. 8, § 79; G. S. 1878, c. 8, § 87.)

§ 643. County, how named in suits.

In all actions or proceedings by or against a county, the name in which the county shall sue or be sued, shall be "the board of county commissioners of the county of _____," (the name of the county); but this provision shall not prevent other county officers, when authorized by law, from suing in their name of office for the benefit of the county.

(G. S. 1866, c. 8, § 80; G. S. 1878, c. 8, § 88.)

As to actions against counties to test the validity of forfeitures of land for non-payment of taxes, see Willard v. Commissioners Redwood Co., 22 Minn. 61. See, also, as to suits by counties, Commissioners Mower Co. v. Smith, 22 Minn. 97.

§ 644. Claims against county—Appeal from board of county commissioners—Appropriation for incidental expenses.

When the claim of any person against a county is disallowed in whole or in part by the board of county commissioners, such person may appeal from the decision of such board to the district court in the same county, by causing a written notice of such appeal to be filed in the office of the county auditor within thirty days after the decision appealed from was made, upon giving security for costs, to be approved by the county auditor. When the claim of any person against a county is allowed in whole or in part by the board of county commissioners, no order shall be issued in payment of such claim or any part thereof until the expiration of thirty days from the date of the decision; and the county attorney may in any case, and, if the amount allowed exceeds twenty-five dollars, he shall, upon the request of seven tax-payers of the county, on behalf of and in the name of such county, appeal from the decision of such board to the district court in the same county, by causing a written notice of such appeal to be filed in the office of the county auditor within thirty days after the date of the decision appealed from; and thereafter no order shall be issued in payment of any part of such claim until the judgment of the district court in the proceedings shall be certified and filed in the office of the county auditor. When notice of appeal is filed as aforesaid, the district court shall have jurisdiction of the parties and of the subject-matter of the proceeding and may compel a return to be made in the same manner as in case of an appeal from a judgment of a justice of the peace. Provided, that the board of county commissioners of any county may in their discretion at their regular meetings in January and July, appropriate

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from the revenue fund of their county a sum of money not exceeding one hundred and fifty dollars, to pay incidental expenses of the county, incurred for postage of the several county officers entitled thereto, and express charges chargeable to the county, and the mileage of town officers making election returns, and such other purposes as the county board may direct, provided, further, that no person shall be entitled to receive at any one time a larger sum than fifteen dollars from such appropriation. The money so appropriated shall be paid on the warrant of the county auditor, upon the presentation of a properly itemized and verified bill, except in such cases where the auditor considers the sum charged to be excessive, in which cases he shall file the bill if requested by the person presenting the same for action of the board at its next meeting.

(G. S. 1866, c. 8, § 81; G. S. 1878, c. 8, § 89; as amended 1889, c. 171, § 1.)

The right of appeal is general, and not limited to cases of claims on which an action could be brought in case of a refusal by the commissioners. *Ryan v. County of Dakota*, 32 Minn. 138, 19 N. W. Rep. 653.

The claimant is not confined to his remedy by appeal, but may bring an original action therefor. *Murphy v. Commissioners Steele Co.*, 14 Minn. 67, (Gil. 51.)

Followed in *Gutches v. County of Todd*, 44 Minn. 383, 46 N. W. Rep. 678.

Where an appeal is taken by a county attorney from the allowance by the commissioners of a claim against the county, the cause of action set up in the complaint must be identical with the subject-matter charged for in the bill presented to and allowed by the board. *Thomas v. Commissioners Scott Co.*, 15 Minn. 324, (Gil. 254.)

§ 645. Proceedings on such appeal.

Upon an appeal being taken, as provided in the preceding section, the county auditor shall, without any fee or charge for such service, within ten days thereafter, file in the office of the clerk of the district court in the same county, a certified copy of the claim, and a transcript from the record in the auditor's office of the action of the commissioners thereon, with a copy of the notice of appeal, and the date of the filing thereof in his office. In case of an appeal by a claimant, the county auditor shall immediately notify the county attorney thereof. The proceeding shall be put upon the trial calendar among the issues of fact for trial at the next general term of the district court in the county, holden after eight days from the date of the appeal; and on or before the second day of such term, the court shall direct pleadings to be made up as in civil actions, and thereon the proceeding shall be tried, all questions of law arising on the case being summarily heard and determined upon the same pleadings; the issues of fact shall be tried as other issues of fact are tried in the same court, and judgment rendered and perfected as in civil actions; but no execution shall issue thereon, except for the collection of a counterclaim, or the collection of costs and disbursements, in case of a judgment therefor against a claimant. An appeal from the judgment of the district court may be taken to the supreme court, as in civil actions, within thirty days after the actual entry of the judgment; if no appeal is taken within that time, a certified copy of the judgment shall be filed in the office of the county auditor, and if an appeal is taken to the supreme court, the determination of that court shall be certified to the district court, and judgment entered in accordance therewith, and that judgment certified to and filed in the office of the county auditor. In all of which cases, after a certified copy of the judgment is filed in the office of the county auditor, orders shall be drawn on the county treasury in payment of any judgment in favor of a claimant; and execution may issue out of the district court for the collection of any costs against a claimant: provided, that in any case where costs are awarded against a claimant, and there is any allowance on the claim in his favor, the amount of such costs shall be deducted from such allowance; and in any case of an appeal, the county may in the district court interpose, as a counterclaim, any demand which the county has against such claimant, and have execution for the collection of any judgment in its favor.

(G. S. 1866, c. 8, § 82; G. S. 1878, c. 8, § 90.)

On appeal by the county from the decision of the county commissioners allowing a claim against the county, if the claimant recover part of his claim, costs cannot be awarded to the county. *Kroshus v. County of Houston*, 46 Minn. 162, 48 N. W. Rep. 770.

See note to § 644, supra.

MINNESOTA STATUTES 1894

Tit. 2]

ORGANIZATION, POWERS, AND DUTIES.

§§ 646-647

§ 646. Enforcement of judgments against counties.

When any judgment is recovered against the board of commissioners of any county, or against any county officer, in any action prosecuted by or against him in his name of office, where the same is to be paid by the county, no execution shall be awarded or issued upon such judgment, except as herein provided; but, unless reversed, the amount of such judgment shall be levied and collected as other county charges, and, when so collected, shall be paid by the county treasurer to the person in whose favor such judgment was rendered, upon the delivery of a proper voucher therefor; but if payment is not made in thirty days after the time the collector of taxes is required by law to make his return of county taxes, next after the rendition of such judgment, then execution may be issued on such judgment, but the property of the county only is liable thereon: provided, that if at the time of the rendition of such judgment, there are sufficient funds belonging to the county in the treasury, the treasurer shall pay the same upon application being made to him by the person in whose favor such judgment was rendered, his agent or attorney.

(G. S. 1866, c. 8, § 83; G. S. 1878, c. 8, § 91.)

§ 647. Petition for change of county seat—Procedure.

That whenever there shall be presented to the county auditor of any county in this state a petition, substantially in the following form, to-wit: "To the board of county commissioners of the county of (here insert the name of the county), Minnesota: The undersigned legal voters of said county pray that the county seat thereof be changed to (here designate the place)", and signed by legal voters of such county to a number equal to not less than sixty per cent of the whole number voting in such county at the last general election preceding the presentation of such petition to said county auditor, as shown by the returns of such election, accompanied by the affidavit or affidavits of not less than two of the signers thereof, stating that within their knowledge, the signatures to such petition are genuine, and that their names were signed thereto within sixty days preceding the date of such affidavits, and that as they are informed and believe such signers were at the time of signing of such petition legal voters of said county.

Auditor to call special meeting of commissioners, when.

And if the number of legal voters of such county whose genuine signatures are attached to said petition, as disclosed by said affidavits, equals or exceeds a majority of the whole number of votes cast in such county at the last general election preceding the presentation of such petition, as shown by the returns of such election, it shall be the duty of the county auditor, subject to the provisions of this act, immediately to file such petition and affidavits in his office, and, subject to the provisions of this act, immediately to make, subscribe, affix his official seal to and file in his office an order for a special meeting of the board of county commissioners of such county, specifying therein the time for such meeting, which shall be between the hours of nine o'clock in the forenoon and five o'clock in the afternoon, on a week day, and not less than fifteen nor more than twenty days after the time of the presentation of said petition and affidavits. And the said county auditor shall mail or procure to be mailed to each member of said board, addressed to him at his last known postoffice address, postage prepaid, or otherwise serve upon him, a duplicate original of such order, not less than five days before the time specified therein for such meeting.

Form of notice to be given.

It shall also be the duty of said county auditor, immediately upon making and filing such order, to make, subscribe, affix his official seal to and file in his office a notice substantially in the following form, to-wit:

"To the legal voters of the county of (here name county as in the petition) Minnesota:

"Notice is hereby given, that a petition is now on file in my office, signed by the legal voters of said county to the number of (here state the number as shown by the said petition and affidavits) praying that the county seat of said county be changed to (here designate the place as in said petition), and

647

61-NW . 322

647

65-NW 956

647-656

59-M - 356

647-656

64-M - 16

67-M - 361

647-656

83-NW 483

647 90-M . 406
92-M . 429

MINNESOTA STATUTES 1894

§§ 647-648

COUNTIES AND COUNTY OFFICERS.

[Ch. 8.

that a special meeting of the board of county commissioners of said county will be held at (here name the place provided for the meeting of the board) on the (here state the time of the meeting as in said order) to consider and determine as to the genuineness of the signatures to said petition, and as to the number of legal voters of said county whose genuine signatures were attached thereto within sixty days preceding the filing of such petition and affidavits in the office of the said county auditor, at which time and place any legal voter in said county may appear, in person or by counsel, and be heard, respecting the matters so committed to the determination of the said board."

It shall also be the duty of the said county auditor to cause the said notice to be published once each week for two consecutive weeks immediately preceding the time fixed therein for the said special meeting of said board in all the newspapers printed and published in such county during such period, and also to post a duplicate of said notice in a public place in each organized town in said county not less than ten days prior to the time fixed in said notice for the meeting of said board. Affidavits stating facts showing compliance with the foregoing provisions for the publication and posting of said notices may be made by any person having personal knowledge thereof, and upon being tendered to said county auditor for filing in his office shall be filed therein, and shall thereafter constitute and be prima facie evidence of the truth of the facts therein set forth in all actions, suits and proceedings. Provided, further, that public notice of the intention to circulate such petition shall be given by the publication thereof in one or more newspapers of such county, if there be such newspapers, and by posting the same in three of the most public places at the county seat in such county for two weeks next preceding the circulation of such petition. Proof of the publication and posting of such notice shall be made in like manner as herein provided for in the notice of the special meeting of said board.

(1889, c. 174, § 1.4)

Act (Laws 1889, c. 174) held constitutional. *Todd v. Rustad*, 43 Minn. 500, 46 N. W. Rep. 73.

Laws 1885, c. 272, providing for removing county seats, was unconstitutional. *Nichols v. Walter*, 37 Minn. 264, 33 N. W. Rep. 800; *Weber v. Timlin*, 37 Minn. 274, 34 N. W. Rep. 29. See *State v. Ostrom*, 35 Minn. 480, 29 N. W. Rep. 585; *State v. Wiswell*, 35 Minn. 480, 29 N. W. Rep. 536.

Publication and posting of notice is requisite to give the county board jurisdiction to proceed. *State v. Commissioners of Scott Co.*, 42 Minn. 284, 44 N. W. Rep. 65; *Id.*, 43 Minn. 322, 45 N. W. Rep. 614.

Duty of the board when notice and proof of publication and posting are sufficient. *State v. Commissioners of Scott Co.*, 43 Minn. 322, 45 N. W. Rep. 614.

Effect of determination of board as to signatures of petition. *Currie v. Paulson*, 43 Minn. 411, 45 N. W. Rep. 854.

Proper method of contesting removal proceedings. *Todd v. Rustad*, *supra*. See *Soper v. County of Sibley*, 46 Minn. 274, 48 N. W. Rep. 1112.

648
66-M - 269

§ 648. Duties of county commissioners.

It shall be the duty of said board of county commissioners to meet at the time and place specified in the notice mentioned in the preceding section, and proceed without unnecessary delay to comply with the provisions of this act, continuing in session from day to day (excluding Sundays and legal holidays) until such compliance shall be completed. The said board shall inquire and determine, which, if any, of the signatures attached to the petition referred to in said notice are not genuine, and which, if any, of the signers of said petition were not, at the time of signing the same, legal voters in said county, and which, if any, of the signatures to said petition were not attached thereto within sixty days preceding the filing of such petition in the office of the said county auditor; the affidavits accompanying said petition and filed in the office of the said county auditor, pursuant to the provisions of the preceding section, shall for the purposes of this act, be prima facie evidence of the truth of the matters stated therein. The said board shall receive any competent evidence offered before them bearing upon the matters committed to their determination aforesaid; and, to that end any legal voter in said county may appear before said board at said meeting in person or by

* An act for changing county seats. Approved March 21, 1889.

counsel, and be heard in respect to said matters under such reasonable rules and regulations as the board may prescribe; provided, however, no remonstrance against a county seat removal shall be presented to or be considered by said board unless notice of a desire to contest such county seat removal shall have been published at least three full weeks in some newspaper of general circulation published in the county, and posted in three public places in such county, before the circulation or such remonstrance. The fact that such notice was so printed and posted shall be established by the affidavits of all the parties who circulated such remonstrance, by those of the parties posting such notices, and by affidavits of the publishers of newspapers who may have published such notices. It shall be the duty of the said board, within ten days after the day specified in said notice for their said meeting, to conclude their inquiries and determination respecting the matters committed to them, as aforesaid, and immediately thereupon to make, sign and file in the office of the said county auditor, a certificate setting forth the names of the persons, if any, whose signatures to such petition are not genuine, and the names of the persons, if any, signing such petition who were not at the time of signing the same legal voters in such county, and the names of the persons, if any, signing such petition whose signatures were not attached thereto within sixty days preceding the filing of such petition in the office of the said county auditor. All of which names shall be stricken from the said petition originally filed in the office of said county auditor, and shall be deemed by the filing of said certificate, to be deducted therefrom.

(1889, c. 174, § 2.)

§ 649. Auditor to order special election.

It shall be the duty of the said county auditor, subject to the provisions of this act, immediately upon the filing in his office of the certificate of the board required by the preceding section, to make, subscribe, affix his official seal to, and file in his office, an order fixing the time of holding a special election in such county upon the question of changing the county seat thereof to the place designated in said petition, provided the petition for such change shall have been signed by the number of legal voters of such county as required by section one of this act, as shown by such petition, accompanying affidavits, the certificate required by the preceding section, and the returns of the last general election held preceding the presentation of said petition to said county auditor. The time fixed in said order for said special election shall not be less than twenty nor more than thirty days after the filing in said auditor's office of the certificates required by the preceding section.

649
64-M - 17

Form of notice—How served.

It shall be the duty of said county auditor immediately upon the making, subscribing and filing of such order to make, subscribe, affix his official seal to and file in his office a notice of said special election substantially in the following form, to-wit:

"To the legal voters of the county of (here name county as in the petition) Minnesota:

"Notice is hereby given that a special election will be held in the several election districts in said county on the (here insert the time fixed in said last mentioned order) for the purpose of voting upon the question of changing the county seat of said county to (here designate the place as in said petition.)"

It shall be the duty of the said county auditor to cause the notice in this section mentioned to be published once in each week for two consecutive weeks immediately preceding the time specified therein for holding such election in all the newspapers printed and published in such county during such period, and also to post a duplicate of said notice in a public place in each organized town in said county not less than ten days prior to the time fixed in such notice for such election.

It shall also be the duty of said county auditor to serve upon or mail to the clerk of each organized town, village or city, in such county, a duplicate of such notice addressed to him at his last known postoffice address, postage prepaid, not less than fifteen days previous to the time fixed in such notice for holding such election.

Place of election—Form of notice.

And it shall be the duty of the clerk of each organized town, village or city, in such county, immediately upon the receipt of said notice by him, to make, subscribe and file in his office, an order fixing the place of holding such special election in each election district within his town, village or city, and immediately thereupon to make, subscribe and file in his office a notice for each election district in his town, village or city, substantially in the following form, to-wit:

"To the legal voters of the (here specify the election district), in the county of (here name county), Minnesota:

"Notice is hereby given that a special election will be held at (here specify the place as fixed in the order for that district), in said election district, on the (here insert the time fixed by the county auditor, as aforesaid), for the purpose of voting upon the question of changing the county seat of said county to (here designate the place as in the said notice of the county auditor)."

And it shall be the duty of such clerk to post a duplicate of said notice for each election district in at least three public places therein, not less than ten days before the time fixed in the said notice of the county auditor for holding such election.

Conduct of election.

It shall be the duty of the judges of election in each election district to meet and organize on the day fixed therefor as aforesaid, and to conduct such election in the same manner, as far as practicable, as other elections are, or may be required to be conducted by law. The polls for such election shall be opened at the hour of eight o'clock in the forenoon and closed at the hour of five o'clock in the afternoon. Those voting in favor of changing the county seat of such county to the place named in the notice of the county auditor of such election shall have printed or written, or partly printed and partly written, on their ballots, the words "for changing the county seat to (naming the place as in said petition) yes." And those voting against such changing shall have printed or written, or partly printed and partly written, on their ballots, the words "for changing the county seat to (here name the place as in said petition) No;" and the votes cast at such election, shall, subject to the provisions of this act, be canvassed, certified, returned and recorded in the same manner as votes cast at the general election are required to be canvassed, certified, returned and recorded.

(Id. § 3.)

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64-M - 17**§ 650. Canvass of votes—Certificate.**

It shall be the duty of the board of county commissioners to meet at the county seat of such county on the third day next following the holding of such special election (including Sundays and legal holidays) and canvass the vote cast at such election and the returns thereof from the several election districts, continuing in session from day to day until they shall have completed such canvass, whereupon they shall immediately make, subscribe and file in the office of the county auditor of said county, a certificate setting forth the number of votes cast in each election district in such county in favor of changing the county seat to the place named in said petition, the number of votes cast against such change, and the majority in each election district for or against such change, the total number of votes cast in such county in favor of such change, the total number of votes cast in such county against such change, and the majority in such county for or against such change. And if fifty-five per cent of the votes cast at such election shall be in favor of changing the county seat of such county to the place named in said petition, such county seat shall, subject to the provisions of this act, be deemed to be thereby changed to the place named in said petition.

(Id. § 4.)

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99 . 111**§ 651. Elections not oftener than once in five years.**

In any of the counties of this state where a special election has been held under this act for the change of the county seat, no petition described and provided for by this act shall be received by and filed with the county au-

MINNESOTA STATUTES 1894

Tit. 3]

COUNTY COMMISSIONERS.

§§ 651-657

ditor of said county, praying for and providing for a change of the county seat, and no proceedings shall be had upon such petition under the provisions of this act until after the expiration of a term of five years from the date of such special election.

(Id. § 5.)

§ 652. Place for holding special elections.

The place for holding any special election under the provisions of this act, shall be, as far as practicable, at the place or places of the last general election held preceding such special election. The signing and filing by a majority of said board of the certificates and statements required by the provisions of this act to be signed and by them filed in the office of the said county auditor, shall be deemed a sufficient compliance with the provisions of this act.

(Id. § 6.)

§ 653. Duplicate petitions to be consolidated.

Whenever two or more petitions substantially in the form prescribed in section one of this act, with accompanying affidavits as therein provided, shall be presented to the county auditor of any county substantially at the same time, praying that the county seat of such county be changed to the same place they shall be attached together, and shall henceforth be taken and deemed to be one petition for all the purposes of this act.

(Id. § 7.)

§ 654. One place at a time to be voted for.

No election shall be called or held under the provisions of this act for voting, upon the question of changing any county seat to more than one place at the same time.

(Id. § 8.)

§ 655. Election not invalidated by failure to publish or post notice.

No failure or refusal of the owner, proprietor, manager, or publisher of any newspaper, his or their agents or employes, to publish any notice required to be published by the provisions of this act shall affect the sufficiency of such notice, or invalidate any of the proceedings therein, by the terms of this act. And no failure to post any notice of any special election under the provisions of this act shall affect the sufficiency of such notice, or invalidate such election, unless it should be made affirmatively and clearly to appear that a sufficient number of legal voters were thereby prevented from voting to change the result of such election as shown in the returns thereof.

(Id. § 9.)

State v. Commissioners of Scott Co., 42 Minn. 284, 44 N. W. Rep. 65.

§ 656. Neglect of duty a misdemeanor.

Any county auditor or county commissioner who shall wilfully neglect or refuse to perform the duties required of him by this act when a petition has been presented as herein provided, shall be guilty of a misdemeanor.

(1889, c. 174, § 10.)

TITLE 3.

COUNTY COMMISSIONERS.

§ 657. Every county to have board of commissioners.

Every county shall be deemed an organized county for the purposes of this title, and shall have a board of county commissioners. In those counties which are organized into townships, and which poll eight hundred votes or more, the said board shall consist of five members, and in all other counties of three members, whose term of office shall be four years, and until their successors are elected or appointed and qualified.

(G. S. 1866, c. 8, § 84; G. S. 1878, c. 8, § 92; as amended 1885, c. 6, § 1.)

It was not the intention, in title 3, to organize all the counties, except so far as was done by entitling each county to a board of county commissioners, nor to provide that

GEN. ST. '94—13

(193)

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MINNESOTA STATUTES 1894

§§ 657-661

COUNTIES AND COUNTY OFFICERS.

[Ch. 8

each county should have all the officers referred to in the title. *State v. Parker*, 25 Minn. 215, 221; followed in *Smith v. Anderson*, 33 Minn. 25, 27, 21 N. W. Rep. 841.

658
65-M - 244

§ 658. Districts in counties with township organization.

The counties which are organized into townships, shall be divided into a number of districts equal to the number of members constituting the board of commissioners of each county, respectively, and numbered in numerical order. The said districts shall be bounded by township or ward lines, be composed of contiguous territory, and contain, as nearly as practicable, an equal population. The board of commissioners may re-district their counties respectively, after each United States or state census, taking the population as shown by their said census as the basis.

(G. S. 1866, c. 8, § 85; G. S. 1878, c. 8, § 93.)

The commissioners may redistrict after the United States census is taken, but before the official announcement by the census bureau. *Norwood v. Holden*, 45 Minn. 313, 47 N. W. Rep. 971. Such redistricting is prospective, and does not affect commissioners already elected. *Id.*

659
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§ 659. Commissioner for each district.

In each of said districts one commissioner shall be elected by the electors thereof, who shall, at the time of his election, be a resident of said district, and shall reside therein during his continuance in office; and the election of said commissioner shall be conducted in all respects like that of other county officers, and the returns made and certified to in like manner to the county auditor, who shall proceed to canvass the votes according to law, and issue certificates of election to the persons entitled to the same.

(G. S. 1866, c. 8, § 86; G. S. 1878, c. 8, § 94.)

See *Norwood v. Holden*, cited in note to § 658, *supra*.

§ 660. Districts in counties without township organization.

Every county which has not a township organization shall be divided into three commissioner districts, which shall contain as near an equal number of electors as convenient, and in one of each of said districts a commissioner shall be elected, and the person elected from district number one shall hold his office for the term of two years; the person elected from district number two shall hold his office for the term of four years; and the person elected from district number three shall hold his office for the term of two years; and commissioners shall be elected thereafter for the term of four years: *provided*, that if the county commissioners are not elected as herein provided for, they shall be appointed by the governor from the qualified electors of the said county, and shall qualify in the same manner as commissioners elected in accordance with general laws: *provided, further*, that the term of all county commissioners, elected at the general election in November, one thousand eight hundred and eighty-four, shall expire on the first Monday of January, one thousand eight hundred and eighty-seven.

(G. S. 1866, c. 8, § 87; G. S. 1878, c. 8, § 95; as amended 1885, c. 6, § 2.)

§ 661. Commissioners—Term of office.

At the first election, when the board of county commissioners will consist of five members, the persons elected from districts numbered one, three, and five shall hold their offices for the term of two years, and the persons elected from the districts numbered two and four, for the term of four years, and thereafter the commissioners elected shall hold for the term of four years; and in every county where the board of county commissioners will consist of three members, the persons elected from districts numbered one and three shall hold their offices for two years, and the person elected from district numbered two, for four years; and thereafter the commissioners elected shall hold office for the term of four years: *provided*, that the term of all county commissioners elected at the general election in November, one thousand eight hundred and eighty-four, shall expire on the first Monday of January, one thousand eight hundred and eighty-seven.

(G. S. 1866, c. 8, § 88; G. S. 1878, c. 8, § 96; as amended 1885, c. 6, § 3.)

661
68-NW 8

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65-M - 243
78-NW 83

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75-M - 547
78-NW 83

MINNESOTA STATUTES 1894

Tit. 3]

COUNTY COMMISSIONERS.

§§ 662-665

§ 662. Basis for districting.

For the first districting under this chapter, and for any re-districting to increase the number of commissioners from three to five, rendered necessary in consequence of increase of population, the votes cast at the last annual election shall be taken as the basis; but this shall not apply to a re-districting based upon any census taken under the authority of the United States or of this state.

(G. S. 1866, c. 8, § 89; G. S. 1878, c. 8, § 97.)

§ 663. Election proceedings in case of a tie.

If the requisite number of county commissioners is not elected by reason of two or more persons having an equal number of votes for the said office, the auditor shall give notice in writing to the persons so having an equal number of votes, to attend at the office of the auditor, at a time to be appointed by the said auditor, who shall then and there proceed publicly to decide by lot which of said persons shall be declared duly elected; and the said auditor shall make and deliver to the person thus declared duly elected, a certificate of his election as hereinbefore provided.

(G. S. 1866, c. 8, § 90; G. S. 1878, c. 8, § 98.)

§ 664. Commissioners to take oath.

Each person elected as commissioner shall, on receiving a certificate of his election, take an oath to support the constitution of the United States, the constitution of this state, and faithfully and impartially to discharge the duties of his office as such commissioner, before any person authorized to administer oaths, which oath shall be certified on the back of such certificate by the person administering the same; and said certificate so endorsed shall be filed with the clerk of the district court of the proper county, and thereupon said commissioner shall enter upon the duties of his office.

(G. S. 1866, c. 8, § 91; G. S. 1878, c. 8, § 99.)

See § 873.

§ 665. Pay of county commissioners.

The county commissioners shall each receive three dollars per day for each day they are necessarily employed in transacting the county business, and ten cents per mile for every mile necessarily traveled in going to and returning from the meetings of the board, or in the discharge of any official duty, under the direction of the board, computed by the nearest traveled route; but no commissioner shall receive pay for more than twenty days' attendance at meetings of said board, or mileage for attendance upon more than six sessions in any one official year, nor pay for more than twenty-five days for all his services as commissioner in any one year; and the county auditor, in drawing his warrant upon the county treasurer for the pay and traveling fees prescribed in this section, shall specify upon the face of said warrant the number of days of service and the amount of mileage for which such warrant is issued; and any county auditor who shall issue his warrant for the payment of any amount in excess of the pay and traveling fees prescribed in this section, shall forfeit to the county the amount of such excess, to be deducted from his salary: *provided*, that whenever extra meetings of the board of county commissioners are rendered necessary to protect the property and interests of the county, because of the default, malfeasance, or misconduct in office of any county officer, or because of the erection or repair of county buildings, the commissioners may receive mileage and pay for the attendance at so many meetings and so many days as are necessary for said sessions, in excess of the limits hereinbefore prescribed. The provisions of this act shall not affect the pay and traveling fees of the commissioners of any county where pay and fees are now provided for by a special law regulating the same: *and provided, further*, that the provisions of this act, so far as the same limits the number of days in each year that such commissioners shall draw pay, or fixes the number of sessions for attendance upon which such commissioners shall be entitled to mileage, shall not apply to the commissioners of Otter Tail county: *provided, fur-*

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ther, that the number of days for which said commissioners shall draw pay shall not exceed fifty days in one year. And providing further, that the provisions of this act, so far as the same limit the number of days in each year that such commissioners shall draw pay or fix the number of sessions for attendance upon which such commissioners shall be entitled to mileage, shall not apply to the commissioners of Wright county; Provided further, That the number of days for which said commissioners shall draw pay shall not exceed thirty-five days in any one year. And provided further, that the provisions of this act, so far as the same limits the number of days that such commissioners shall draw pay, or fixes the number of sessions for attending upon which such commissioners shall be entitled to mileage, shall not apply to counties where the population exceeds twenty-eight thousand inhabitants, which shall be ascertained by the last preceding census. Provided, further, that the number of days for which any commissioner shall draw pay in any county in this state where the population exceeds twenty-eight thousand inhabitants, which shall be ascertained by the last preceding census, shall not exceed forty days in any one year. Provided, further, that the provisions of this act shall not affect the pay and traveling fee of the commissioners of any county where pay and fees are now provided for by a special law regulating the same.

(G. S. 1866, c. 8, § 92, as amended 1873, c. 44, § 1; G. S. 1878, c. 8, § 100; 1881, c. 52, § 1; Id. Ex. S. c. 28, § 1; Id. c. 37, § 1; 1885, c. 88; 1891, c. 62; * 1893, c. 154.)

See Laws 1881, Ex. S. c. 37, approved October 31, 1881, relative to Goodhue county.

§ 666. Quorum.

A majority of the board of commissioners shall be a quorum; but no business shall be done unless voted for by a majority of the whole board.

(G. S. 1866, c. 8, § 93; G. S. 1878, c. 8, § 101.)

§ 667. Meetings of county commissioners.

The board of county commissioners shall meet at the county seat of their respective counties, for the purpose of transacting such business as may devolve upon or be brought before them, on the first Tuesday after the first Monday of January, and on the second Monday of July in each year, and may hold such extra sessions as they deem necessary for the interests of the county. Such extra sessions shall be called by a majority of the board, and the clerk shall give at least ten days' notice thereof to the commissioners; but no regular session shall continue longer than six days, and no extra session longer than three days; Provided, That the limitation of the number of days of the regular or extra sessions shall not apply to Carver county.

(G. S. 1866, c. 8, § 94, as amended 1874, c. 74, § 1; G. S. 1878, c. 8, § 102; 1885, cc. 87, 99; 1887, cc. 33, 96; 1889, cc. 172, 173, 180, 182; 1891, c. 125.)

The regular session need not be continuous from day to day; the board may adjourn to a date more than six days from its commencement. *Banning v. McManus*, 51 Minn. 289, 53 N. W. Rep. 635.

See *Reimer v. Newel*, 47 Minn. 237, 240, 49 N. W. Rep. 865.

§ 668. Change of time for sessions.

Every thing or act required of said board of county commissioners, or which they were authorized to do, at their September session, as heretofore authorized, shall be done hereafter at their July sessions, provided for in the foregoing section.

(1874, c. 74, § 2; G. S. 1878, c. 8, § 103.)

§ 669. Meetings to fill vacancies.

In all cases of vacancy occurring in any office which is authorized to be filled by appointment of the board of county commissioners, the board of county commissioners shall meet at their usual place of meeting, upon one day's notice from the chairman or clerk of said board, such notice to be served per-

* An act to amend section eight hundred and forty-two of Kelly's General Statutes of the State of Minnesota, relating to "Per Diem and Mileage" of county commissioners, by adding a proviso thereto relating to Wright county. Approved April 11, 1891.

MINNESOTA STATUTES 1894

Tit. 3]

COUNTY COMMISSIONERS.

§§ 669-673

sonally upon each member of such board in the same manner as summons in the district court is authorized to be served.

(1881, Ex. S. c. 6, § 1; G. S. 1878, v. 2, c. 8, § 102a.)

§ 670. Vacancy in office of commissioner.

That whenever any vacancy shall occur in any office of county commissioner, from death, resignation, removal, or otherwise, more than thirty days before any general election for county officers, the chairman of the board of supervisors in each town, and the presiding officer of any incorporated village or villages, city or cities, which may be included in any commissioner's district, when such vacancy shall happen, or a majority of such officers, shall assemble at the court-house at the county-seat, and appoint or elect a person who is a resident of such district to fill such vacancy; and the person so elected or appointed shall continue in office until the next general election, and until his successor is elected and qualified: *provided*, that whenever any such vacancy shall occur in any commissioner's district which is comprised wholly within the limits of any incorporated city, then such vacancy shall be filled by the common council of such incorporated city; that the person elected or appointed under the provisions of this act shall receive a certificate thereof, and shall file his certificate of election in the office of the district court of his county, and shall take the oath of office and qualify in the manner now prescribed for county commissioners; that the absence of any county commissioner from his county for six successive months shall be deemed a vacancy of his office within the meaning of this act; that whenever a vacancy occurs in the office of commissioner as aforesaid, it shall be the duty of the county auditor to immediately give notice thereof to such chairman and presiding officer.

(1887, c. 173, § 1; G. S. 1878, v. 2, c. 8, § 104.)

Cited, *State v. Benedict*, 15 Minn. 193, 203, (Gil. 153, 158.)

§ 671. Seal—Proceedings—Evidence and publication.

The commissioners shall have and use the seal of the auditor of their county as their common seal, and copies of their proceedings, when signed, sealed, and attested, as provided by law, shall be evidence of such proceedings in any of the courts of this state, and the county commissioners shall cause their official proceedings of each session to be published in some newspaper printed and published in their county: *provided*, that in the counties of Hennepin and Ramsey the proceedings may be printed in a daily paper, and one weekly paper printed and published at the respective county-seats of said counties; and in all cases, in designating the paper or papers, the character and value thereof as a medium for getting the proceedings before the tax-payers of said counties respectively shall be taken into consideration; [which publications shall be let by contract to the lowest bidder.]

(G. S. 1866, c. 8, § 96; G. S. 1878, c. 8, § 105; as amended 1879, c. 29, § 1.)

§ 672. To choose chairman.

The commissioners, at their annual session in January, or at their first session in each year, shall elect one of their number as chairman, who shall preside at the meetings of the board, and sign all documents requiring the signature of the board; and the signature of such person, as chairman of the board of commissioners, attested by the auditor, shall be as legal and binding as if the entire board had affixed their names: *provided*, that in case the chairman so elected is absent at any meeting of the board, all documents requiring the signature of the board, shall be signed by all the members present.

(G. S. 1866, c. 8, § 97; G. S. 1878, c. 8, § 106.)

The chairman has no authority to lease premises for the county, other than that conferred by the board. *Gardner v. Commissioners Dakota Co.*, 21 Minn. 33, 38.

§ 673. Selection of jurors, when and how made.

The board of commissioners, at their annual meeting in January, shall select from the qualified electors of the several election districts of their respect-

(197)

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ive counties, or of the counties attached thereto for judicial purposes, seventy-two persons, properly qualified, to serve as grand jurors, and the same number of persons, properly qualified, to serve as petit jurors, and shall make out separate lists thereof, which lists shall be certified and signed by the chairman of the board, attested by the clerk, and shall be forthwith delivered to the clerk of the district court: *provided*, that if in any county the county commissioners are not able to select the number required by this section for grand and petit jurors, they shall select a less number, and the highest number possible: *and provided, further*, that in the county of Hennepin the number of persons so selected as grand jurors shall be one hundred and thirty-five, and to serve as petit jurors, two hundred and fifty: *and provided, further*, that in all counties where the population shall exceed ten thousand people, no person shall be included in such list who was included in the last previous annual list, and any person having served as a juror for one term of court, shall be retired from such list, and shall not be again drawn during the same year: *and provided, further*, that in counties having two or more terms of court in one year, after the jurors have been drawn for the first or any term of said court, the clerk of said court shall retire from the original list the names of all persons who were drawn for said term, and notify the county commissioners thereof, and it shall be the duty of the county commissioners at the next session thereafter to select new names, equal in number to those retired, and the said clerk shall add the names so selected to the original list.

(G. S. 1866, c. 8, § 98; as amended 1877, c. 10, § 1; 1878, c. 18, § 1; G. S. 1878, c. 8, § 107; 1885, c. 5.)

Although the board may have selected the proper number of names, and had them written down, the list cannot be deemed complete until it is certified, signed, and attested, and the clerk of the court has no authority to draw a grand jury from any list, except such as is made out and certified to him as required by this section. *State v. Greenman*, 23 Minn. 209, 211; followed in *State v. Schumm*, 47 Minn. 373, 50 N. W. Ren. 362.

From the certificate of the clerk to the list of petit jurors, that the persons were selected by the county commissioners at a regular meeting in January, it will be presumed that it was done at the annual meeting in January, as required by law. *State v. Gut*, 13 Minn. 341, 348, (Gil. 315.)

§ 674. How often juror can be drawn.

No person shall be drawn as a grand or petit juror for more than one term of the district court in any one year; but this provision shall not exempt persons who have served no more than twice in any three months as talesmen or as struck jurors only.

(1889, c. 68, as amended 1891, c. 121, § 1.)

§ 675. Same—Failure to select in January.

If for any cause such list is not made and delivered, as aforesaid, by the board of county commissioners at their annual meeting in January, they shall make out and deliver the same as aforesaid, at any regular or special session thereafter.

(G. S. 1866, c. 8, § 99; G. S. 1878, c. 8, § 108.)

§ 676. Same—Who to be selected.

In preparing such list the board of county commissioners shall select such persons as they know, or have good reason to believe, are possessed of the qualifications of jurors and not exempt by law.

(G. S. 1866, c. 8, § 100; G. S. 1878, c. 8, § 109.)

§ 677. Offices for county officers—Transcribing records, when.

The board of commissioners shall provide offices, and necessary fuel for heating the same, for the county auditor, treasurer, register of deeds, sheriff, the judge of probate and clerk of the district court, and suitable furniture for the use of said offices, and desks and safes or vaults for the preservation and security of the books and papers belonging thereto; and shall provide all

books and stationery necessary for the use of the above mentioned offices, and the probate court and county surveyor; but not more than one hundred dollars shall be appropriated for books, stationery and furniture for any one office in any one year. And in case the records of any said officers shall by use or from any cause be damaged so as to render any portion of them liable to become illegible, destroyed or lost, the board of county commissioners of any county shall in such case provide suitable books, and authorize said officers to transcribe such records and make the new volumes correspond in designation, number and page to the original record; the said officers shall receive for such services such reasonable fees, not to exceed seven cents per folio, as shall be fixed by the board of county commissioners of the county with reference to the whole work done; Provided, That where printed record books can be used as a whole or in part, such books shall be used; Provided, That none of the provisions of this act shall extend or be applicable to Ramsey county or commissioners thereof.

(G. S. 1866, c. 8, § 101, as amended 1870, c. 44, § 2; 1873, c. 45, § 1; G. S. 1878, c. 8, § 110; 1891, c. 63, § 1.)

§ 678. Offices in newly-organized counties.

That all counties recently organized, or that may hereafter be organized, the county officers may respectively hold their offices at their respective places of abode until the board of county commissioners of such counties shall have provided offices at the county seat for the accommodation of such officers as are by law required to keep their offices at the county seat; but it shall be the duty of the board of county commissioners of such counties to provide the requisite offices, within three years from their organization, at the county seat of the county: provided, that this act shall not apply to Douglas county. (1867, c. 114, § 1; G. S. 1878, c. 8, § 111.)

§ 679. Vacancy in office of register of deeds.

In case the office of register of deeds becomes vacant by death, resignation or otherwise, the said board shall meet forthwith, at the place where their next regular meeting would be held, and appoint some suitable person to perform the duties of the said office until the next annual election, and until his successor is duly elected and qualified.

(G. S. 1866, c. 8, § 102; G. S. 1878, c. 8, § 112.)

Cited, *State v. Benedict*, 15 Minn. 198, 202, 203, (Gil. 153.)

679-700
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679-700
65-M - 310

§ 680. Annual statement of receipts and expenditures.

The board of commissioners, on the first Tuesday in January annually, shall make a full and accurate statement of the receipts and expenditures of the preceding year, which statement shall contain a full and correct description of each item, from whom and on what account received, to whom paid, and on what account expended, together with an accurate statement of the finances of the county at the end of the fiscal year, including all debts and liabilities of every description, and the assets and the other means to discharge the same; and shall, within thirty days thereafter, have the same posted up at the court-house door, and at two other public places in their county, and published in some newspaper therein, if there is one, for three successive weeks. Said board shall, at its meeting in September and January of each year, examine and count all the funds in the treasury, and shall examine the accounts and vouchers of the auditor and treasurer, and make a written certificate of the condition of the treasury, and file the same with the auditor, showing how much money, and what kind, is in the treasury, and all other matters in connection therewith.

(G. S. 1866, c. 8, § 103, as amended 1872, c. 59, § 1; G. S. 1878, c. 8, § 113; 1885, c. 111.)

Cited, *Commissioners Mower Co. v. Smith*, 22 Minn. 97, 112.

County commissioners, in procuring the publication of the annual statement, act under a special statutory authority, and cannot bind the county to pay for the publication of a statement different, or covering another period, from that therein prescribed. *Mitchell v. Commissioners St. Louis Co.*, 24 Minn. 459.

MINNESOTA STATUTES 1894

§§ 681-682

COUNTIES AND COUNTY OFFICERS.

[681

681

**§ 681. Powers of commissioners—Organizing towns, etc.
—Apportioning funds.**

Said board have final power to examine and settle all accounts of the receipts and expenditures of the county, and shall have the care of the county property and the management of the county funds and business, except in cases otherwise provided for; but shall exercise no other powers than such as are given by law. Such board shall, in addition to the powers above enumerated, have power to set off, organize and vacate towns, and change the boundaries thereof in their respective counties, to designate the time and place of holding the first election therein, and make all necessary orders for the disposition and preservation of the records of any town which may be vacated by said board: provided, that no town shall be vacated, nor any town with an area of thirty-six sections or less be divided or have any part stricken therefrom without first submitting the question to a vote of the electors of the town, except in the cases provided for in section two of chapter ten of said general statutes. Such board of county commissioners shall also have power, whenever a town of their county shall be divided or have any part set off or stricken therefrom, to apportion pro rata according to assessed valuation among the several parts of the town so divided any funds then belonging to such town or to which such town is entitled, and not raised or theretofore appropriated for a purpose inconsistent with such apportionment. And said board shall also have power, whenever a town of their county shall be divided or have part stricken therefrom, to apportion in like manner, but with due regard for the purpose for which the same shall have been levied, all taxes then levied or assessed for the benefit of the town so divided and remaining uncollected, and to provide for the payment thereof when collected in pursuance of the apportionment or allotment by them made. Provided, that all taxes collected from real and personal property in said newly organized towns after the passage and approval of this act shall be paid by the county treasurer to the treasurer of such newly organized towns for the use and benefit of such town or towns.

(G. S. 1866, c. 8, § 104, as amended 1869, c. 32, § 1; G. S. 1878, c. 8, § 114, 1893, c. 180, § 1.)

For act authorizing lease of county lands to agricultural societies, see § 2977.

The commissioners cannot, upon petition of a number of the inhabitants of an organized town containing no more than thirty-six sections, and without a vote of the people, set off a portion of the territory and organize the same into a separate town. Such proceeding is not authorized by this section or section 2, c. 10, G. S. 1878. See § 915. Under the last section the petition must be by the town as a corporation, not by the electors. *Town of Mantorville v. Mantor*, 14 Minn. 437, (Gil. 327.)

As to power of the boards to issue bonds of their counties to provide for the erecting and repairing of court-houses, jails, and other necessary buildings for the use of the county, see *Chaska Company v. Supervisors Carver Co.*, 6 Minn. 204, (Gil. 130.)

See note to § 638.

The subject of Laws 1893, c. 180, is sufficiently expressed in the title. *State v. Brown* (Minn.) 57 N. W. Rep. 659. The proviso applies to new towns set off prior to its passage. Id. The legislature may after the division of a town apportion among its parts uncollected taxes levied before the division. Id.

§ 682. When commissioners may make appropriation for private hospital.

The board of county commissioners in any county in this state may appropriate to any hospital association which maintains a hospital in any city of more than ten thousand inhabitants and less than one hundred thousand inhabitants, situated within the county wherein such board of county commissioners is elected, and at which patients who are county charges are cared for, such sum of money, not exceeding the sum of fifteen hundred dollars, as such board of county commissioners may deem expedient or advisable in order to enable such hospital association to maintain such hospital; and may levy a tax in the same manner and at the same time as other taxes are levied to provide for payment of such appropriation in cases where there are no funds properly applicable to the payment thereof.

(1893, c. 145, § 1.)

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01 - 353
71-M - 198
78-NW 115
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01 - 324

MINNESOTA STATUTES 1894

Tit. 3]

COUNTY COMMISSIONERS.

§§ 683-687

§ 683. Manner of payment.

Any amount so appropriated by any board of county commissioners for the purpose specified in section one of this act shall be paid at such time and in such manner as such board of county commissioners may provide by resolution adopted at the same time of making such appropriation.

(Id. § 2.)

§ 684. Commissioners to equip public morgue, when.

That the board of county commissioners in all counties in this state having a population of one hundred thousand people or over not already provided with a public morgue, shall, on or before July 1, 1893, provide and equip a public morgue within the limits of the county seat of such county, for the reception and proper disposition without charge to anyone of all dead bodies which under the present law are subject to a post mortem examination or coroner's inquest; provided that the entire cost of equipping and building such morgue shall not exceed the sum of two thousand five hundred dollars, and that the cost of maintaining such morgue shall not exceed the sum of three thousand dollars in any one year.

(1893, c. 146, § 1.º)

§ 685. Maintenance of the same.

Such public morgue shall be maintained in a suitable building separate and apart from any other business, and shall be equipped with the best modern and approved appliances for the handling and disposition of dead bodies, and shall not be connected in any manner with any undertaking establishment nor shall any person be employed in or about said morgue who is in any manner connected with or interested in any undertaking business, and shall be at all times under the control of said board of county commissioners.

(Id. § 2.)

§ 686. When inquests and post mortem examinations to be held at morgue.

All inquests, post mortem examinations or autopsy held by the coroner upon any bodies subject to the same within such counties shall be held at such public morgues, and the coroner or deputy coroner of any county having such a public morgue is hereby prohibited from holding any post mortem examinations, autopsy or coroner's inquest upon any body subject to the same at any other place within said county, excepting only the residence of such deceased person where the death occurred upon the premises of deceased. The county coroner and his deputy or deputies and the keeper of such public morgue are hereby prohibited from influencing, interfering or in any manner attempting to direct or designate the undertaker who shall take charge of and inter any dead body from such public morgue.

(Id. § 3.)

§ 687. Claims to be itemized before allowance.

Before any account, claim or demand against any town or county of this state, for any property or services for which such town or county shall be liable, shall be audited or allowed by the board of officers authorized by law to audit and allow the same, the person in whose favor such account, claim or demand shall be, or his agent, shall reduce the same to writing in items, and shall verify the same to the effect that such account, claim or demand is just and true, that the money therein charged was actually paid for the purposes therein stated, that the property therein charged was actually delivered or used for the purposes therein stated, and was of the value therein charged, and that the services therein charged were actually rendered, and of the value therein charged; or, in case such services were official, for which fees are prescribed by law, then that the fees or amounts charged therefor are such as are allowed by law, and that no part of such account, claim or demand has been paid: provided, that the provisions of this act shall not apply

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⁶ An act to provide a public morgue in certain counties within this state. Approved March 23, 1893.

MINNESOTA STATUTES 1894

§§ 687-692

COUNTIES AND COUNTY OFFICERS.

[Ch. 8

to any claim or demand for an annual salary, or per diem of jurors or witnesses, fixed by or in pursuance of any statute.

(1869, c. 27, § 1; G. S. 1878, c. 8, § 115.)

Clerk cannot charge fees for oaths to jurors and witnesses for the state in criminal cases, on verifying their accounts for *per diem* and mileage. *Wilcox v. County of Sibley*, 34 Minn. 214, 25 N. W. Rep. 351.

§ 688. Verification of claims—Punishment of perjury.

The verification required by the preceding section may be made before any officer authorized by law to administer oaths, or before any member of the board to which the account, claim or demand shall be presented to be audited; and every member of any such board is hereby authorized to administer the proper oath in such cases; and every person who shall wilfully or knowingly swear falsely on any such cases shall be deemed guilty of wilful perjury, and be punished accordingly: provided, that in case any such account, claim or demand shall be made or presented by any administrator or executor on behalf of the estate of a deceased person, he shall not be required to verify the same, but may prove the same otherwise to the satisfaction of the board.

(1869, c. 27, § 2; G. S. 1878, c. 8, § 116.)

§ 689. Auditing of verified claims.

Whenever any account, claim or demand against any town or county shall have been verified in the manner prescribed in this act, the board of officers to whom the same shall be presented may receive and consider the same, and may allow or disallow the same in whole or in part as to such board or officers shall appear just or lawful, saving to such claimants the right of appeal.

(1869, c. 27, § 3; G. S. 1878, c. 8, § 117.)

See §§ 644, 645 and 719.

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§ 690. Penalty for allowing accounts not itemized.

Any member of such board who shall audit and allow any account, claim or demand required by this act to be itemized and verified, without the same having been first duly itemized and verified, shall be deemed guilty of a misdemeanor, and be punished by fine not exceeding five hundred dollars, or by imprisonment in the county jail not exceeding six months, or by both such fine and imprisonment.

(1869, c. 27, § 4; G. S. 1878, c. 8, § 118.)

691
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§ 691. Commissioners to appoint assessors and overseers of roads, when.

The board of county commissioners of any county, any part of which is not organized into towns, shall at their stated meeting in January in each year divide such unorganized territory into road and assessment districts, and appoint a person of suitable qualifications as assessor for each district, and one as overseer of roads in each road-district, who shall reside within the limits thereof, and shall respectively possess the powers and perform the duties of a town assessor, and a town overseer of roads, after qualifying as required by law in the cases of such town officers respectively, and shall each hold his office for the term of one year; but nothing herein contained shall be construed to prohibit the commissioners from including all such unorganized territory within one such district.

(G. S. 1866, c. 8, § 105; G. S. 1878, c. 8, § 119; as amended 1883, c. 50, § 1.)

691-692
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§ 692. When to establish election districts.

The commissioners of such county, shall, at their stated meetings in January and September, upon the petition of not less than ten legal voters, not residing within ten miles of any established election district, create and establish within said county an election district, at such point as will be most convenient for the persons so petitioning; but no place of holding elections shall be located in said election district within ten miles of any other place of holding elections previously established, nor shall the commissioners create any election district, except at the time of their stated meetings, and then

692
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MINNESOTA STATUTES 1894

Tit. 3]

COUNTY COMMISSIONERS.

§§ 692-697

only in compliance with the request of ten or more legal voters residing not less than ten miles from any established election district.

(G. S. 1866, c. 8, § 106; G. S. 1878, c. 8, § 120.)

But see § 10.

§ 693. To appoint judges of election.

The board of commissioners of such county, at their session last before an election, shall appoint judges of election for each election district; and thereupon cause notice to be posted in at least three of the most public places in such county, containing a complete list of all such election districts, with the names of the several judges of election in each election district.

(G. S. 1866, c. 8, § 107; G. S. 1878, c. 8, § 121.)

But see §§ 54, 55.

§ 694. Justices and constables.

There shall be elected in each of such election districts, at the general state election, two justices of the peace and two constables, who shall hold their respective offices for the term of two years, and until their successors are elected and qualified, and shall take the oath of office, and execute the bond required of town justices and constables; such bond [to be] approved by the chairman of the county board; and any vacancies that may occur in either of said offices shall be filled by appointment of the county board.

(G. S. 1866, c. 8, § 108; G. S. 1878, c. 8, § 122.)

§ 695. Official oaths and papers, where filed.

The official oaths and other papers required by law to be filed in the office of town clerk, shall, in all counties not divided into towns, be filed with the register of deeds for such county.

(G. S. 1866, c. 8, § 109; G. S. 1878, c. 8, § 123.)

§ 696. Commissioners not to appoint themselves to office, etc.—Penalty.

No county commissioner shall be appointed or elected by the board of county commissioners of which he is a member, to any office or position of trust to which such commissioners are authorized by law to appoint or elect; nor shall any compensation or salary be paid to any person heretofore or hereafter so appointed or elected. And no county commissioner shall receive any money or other valuable thing as a condition or inducement to voting for any contract or other thing under consideration of the board; nor shall he become a party to or interested in, directly or indirectly, any contract made by the board; and every appointment or election heretofore or hereafter made, and every contract or payment voted for or made contrary to the provisions of this section, is void; and any violation of this section hereafter committed shall be a malfeasance in office, which will subject the commissioner so offending to be removed from office.

(G. S. 1866, c. 8, § 110, as amended 1876, c. 73, § 1; G. S. 1878, c. 8, § 124.)

§ 697. Commissioners to re-establish section and meander posts.

The board of county commissioners of any county where it shall be made to appear to their satisfaction, at any regular or special meeting, that the section, quarter section or meander posts or monuments established by the United States have been destroyed, or are becoming obscure, shall have power to authorize and direct the county surveyor of the county to re-survey, relocate and re-establish such section, quarter section or meander posts or monuments, by having permanently placed at such government corners an iron or stone or wood post or monument, of a durable character, of such size and construction as in their discretion may be deemed desirable. In making such survey the said county surveyor shall keep full and accurate notes thereof, and shall file a certified copy of the same in the office of the register of deeds of said county. And the points where said posts or monuments are re-located and re-established, as aforesaid, shall be taken and considered as

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MINNESOTA STATUTES 1894

§§. 697-703

COUNTIES AND COUNTY OFFICERS.

[Ch. 8

prima facie evidence that such points are the points where the section posts, or monuments, were established by the United States government.

(1875, c. 33; G. S. 1878, c. 8, § 125; as amended 1885, c. 47; 1889, c. 102; 1893, c. 168, § 1.)

§ 698. When commissioners to establish township landmarks.

That it shall be the duty of the county commissioners of every county in this state having a population of over five thousand, to cause to be placed at the north-east section stake, on the north-east corner of every government township in their respective counties, a landmark; said landmark shall be of a stone not less than eight inches square and two feet long, sunk the full depth in the ground, duly marked on the top by chisel marks, the number and range of said township and section, or an iron post, two inches square and thirty inches long, with flat head six inches square, with letters on the top indicating the town, range and section; the expenses to be paid out of the county treasury, as other expenses of said county are paid.

(1875, c. 32, § 1; G. S. 1878, c. 8, § 126.)

§ 699. By whom located.

Said landmarks shall be located by the county surveyor of each county, and, where there be no county surveyor, then by a competent surveyor employed by said commissioners, and shall be located, if possible, where the government stake was located, or as near as can be; and the same shall be considered and taken prima facie evidence as the legal corner of said government section one in said government township, according to government survey.

(1875, c. 32, § 2; G. S. 1878, c. 8, § 127.)

§ 700. Penalty for injuring landmarks.

It shall be unlawful for any person to remove, destroy or deface said landmarks, and upon conviction of the same shall be deemed guilty of a misdemeanor, and be punished by fine and imprisonment, or both, in the discretion of the court, not more than one hundred dollars and not less than twenty-five dollars, and not more than thirty days imprisonment in the county jail of the county.

(1875, c. 32, § 3; G. S. 1878, c. 8, § 128.)

§ 701. Extra compensation of auditors and treasurers in certain counties.

That the county commissioners of any county in this state, to which any unorganized county is attached, are hereby empowered and authorized to fix annually the extra compensation of the county auditor and treasurer of such county for the additional labor occasioned by such annexation of such unorganized territory: *provided*, that in no case shall such additional compensation be fixed at a greater sum than that provided by law for the compensation of like officials in unorganized counties of like valuation.

(1887, c. 195; G. S. 1878, v. 2, c. 8, § 128a.)

§ 702. Unorganized counties—Powers of commissioners.

That the board of county commissioners of any unorganized county in this state who have been appointed or who shall hereafter be appointed by the governor, or who shall be elected according to law, are hereby authorized and empowered to do and act as hereinafter provided.

(1887, c. 189, § 1; G. S. 1878, v. 2, c. 8, § 128b.)

§ 703. Same—Shall establish school-districts, etc.

Said board shall establish independent school-districts in such unorganized counties as needed and demanded by the public, and shall act as trustees of such school-districts established by them, until such time as each of said

¹ "An act granting certain powers and authority to the board of county commissioners of any unorganized county in this state." § 6 repeals all inconsistent acts.

MINNESOTA STATUTES 1894

Tit. 3]

COUNTY COMMISSIONERS.

§§ 703-706

school-districts shall elect respectively their school board, which board shall be governed by the law as prescribed for the government of school boards in organized counties, and all moneys belonging to such counties accumulated or accumulating from the levy of the general one-mill school tax prescribed by law to be levied, may be paid out on the order of such commissioners respectively, by the treasurer of the county collecting the same, and shall be disbursed by them *pro rata* according to the number of scholars attending school in such districts, in maintaining public schools in said school-districts established by them, and shall be used for no other purpose.

(1887, c. 189, § 2; G. S. 1878, v. 2, c. 8, § 128c.)

§ 704. Same—To open roads—Road and bridge tax.

To organize such road districts and to lay out and open such roads in said county as shall be necessary for or required by the business of such unorganized county. And the officers of the county to which such unorganized county may be attached, for purposes of taxation, shall levy annually a road and bridge tax not exceeding in the aggregate five mills per acre on all the taxable land in said county, as a portion and part of the taxes that may be collected from the property in such unorganized county; and the said money shall be paid out by such treasurer of such county only on the order of the commissioners of such unorganized county, as hereinafter provided, and shall be expended by them on roads and bridges in such unorganized county. The tax herein authorized to be levied may be levied in addition to the tax now provided by law to be levied in unorganized counties.

(1887, c. 189, § 3; G. S. 1878, v. 2, c. 8, § 128d; as amended 1893, c. 170, § 1.s)

§ 705. Same—Bond of commissioners—Filing certificate of appointment—Drafts.

The commissioners of such unorganized county, before entering upon the duties of their office or receiving any moneys under or pursuant to this act, shall make and file with the board of county commissioners to which such unorganized county is attached, a bond, running to said commissioners, with two or more sufficient sureties, to be approved by a judge of the district court of the judicial district in which such unorganized county is situated, in an amount double the amount of such school, road, and bridge tax levy; and shall, with such county commissioners, also file a certificate from the governor or state auditor showing that they have been duly appointed or elected commissioners of such unorganized county; and all orders on the treasurer for moneys to be paid pursuant to this act [shall] be signed by two of such commissioners.

(1887, c. 189, § 4; G. S. 1878, v. 2, c. 8, § 128e.)

§ 706. Same—Compensation.

The compensation of such county commissioners of unorganized counties shall be two dollars per day, while performing their duties under the provision of this act, payable out of the one-mill road and bridge tax levy heretofore provided for: *provided*, that such services shall not exceed in the aggregate one hundred days in each year.

(1887, c. 189, § 5; G. S. 1878, v. 2, c. 8, § 128f.)

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* § 2 repeals all inconsistent acts.

TITLE 4.

COUNTY AUDITORS.

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§ 707. Each county to elect auditor.

There shall be elected in each organized county a county auditor, who shall hold his office for two years from the first Monday of March next succeeding his election, and until his successor is elected and qualified, and shall keep his office at the county seat.

(G. S. 1866, c. 8, § 111; G. S. 1878, c. 8, § 129.)

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See State v. Weld, 39 Minn. 426, 40 N. W. Rep. 561.

707-869
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§ 708. Auditor to give bond and take oath.

Each county auditor, previous to entering upon the duties of his office, shall give bond to the state of Minnesota, with two or more sureties to be approved by the board of county commissioners, in such penal sum, not less than two thousand dollars nor more than twenty thousand dollars, as the said commissioners require, conditioned for the faithful discharge of the duties of his office; and shall also take and subscribe the oath required by law, to be endorsed upon the said bond, which bond, so endorsed, shall be filed and recorded in the office of the register of deeds.

(G. S. 1866, c. 8, § 112; G. S. 1878, c. 8, § 130.)

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See § 873, post.

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§ 709. Proceedings against auditor for malfeasance in office.

If any county auditor fails to make settlement, or pay over all moneys with which he stands charged at the time and in the manner prescribed by law, or misapplies any money which comes into his possession in the discharge of his official duties, the county commissioners shall commence an action against such auditor and his sureties, in the district court of said county, or other court of competent jurisdiction. And when complaint in such action is made, the said commissioners shall cause a copy thereof to be forthwith furnished to the governor of the state, who shall, if the complaint alleges any of the acts of neglect or offences hereinbefore recited, suspend such auditor temporarily, and cite him to appear and show cause why such suspension should not continue during the pendency of the action. Either party may produce competent evidence, by affidavits or otherwise, at the time of such hearing; and if there appears to be reasonable grounds to support the charges of said complaint, the governor may continue such suspension during the pendency of the action; otherwise he shall restore him to office. In case of suspension, under the provisions of this section, such auditor, if restored to office, shall not be deprived of his salary during the time of suspension, and his reasonable expenses in defending himself upon such hearing before the governor shall be paid by the county. If upon the trial of such action such auditor is adjudged guilty of any neglect of duty, or offence charged, the office shall be deemed to be vacant.

(G. S. 1866, c. 8, § 113, as amended 1871, c. 89, §-1; G. S. 1878, c. 8, § 131.)

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§ 710. Action on auditor's bond.

An action may be brought against the county auditor and his sureties in the name of the state of Minnesota, and for its use or for the use of any county or person injured by the misconduct in office of the auditor, or by the omission of any duty required of him by law.

(G. S. 1866, c. 8, § 114; G. S. 1878, c. 8, § 132.)

§ 711. Effect of failure to qualify.

If any person elected to the office of county auditor shall not give bond and take the oath aforesaid, on or before the first Monday of March next after his election, it shall be deemed a refusal to serve.

(G. S. 1866, c. 8, § 115; G. S. 1878, c. 8, § 133.)

§ 712. Vacancy, how filled.

When from any cause a vacancy happens in the office of county auditor, the board of county commissioners shall appoint some suitable person to fill such vacancy; and the person so appointed shall give bond, and take and subscribe the oath aforesaid, and shall hold his office until the next annual election, and until his successor is elected and qualified.

(G. S. 1866, c. 8, § 116; G. S. 1878, c. 8, § 134.)

Cited, *State v. Benedict*, 15 Minn. 198, 203, (Gil. 153, 158.)

§ 713. Temporary disability provided for.

When any county auditor, having no deputy, is unable, by reason of sickness or from any other cause, to perform the duties of his office, within the time specified by law for their performance, or when both the auditor and his deputy are so disabled, by sickness or otherwise, the board of county commissioners shall appoint some suitable person to do and perform the duties of county auditor during such disability, and may require of the person so appointed such bond and security for the faithful discharge of the duties of the appointment as they deem expedient.

(G. S. 1866, c. 8, § 117; G. S. 1878, c. 8, § 135.)

The deputy of the county auditor may act for the auditor in canvassing election returns and issuing certificates of election. *Crowell v. Lambert*, 10 Minn. 369, (Gil. 295.)

§ 714. Who ineligible.

No county commissioner, county surveyor, or county treasurer, is eligible to the office of county auditor.

(G. S. 1866, c. 8, § 118; G. S. 1878, c. 8, § 136.)

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73-M - 355

§ 715. May appoint deputies.

County auditors are authorized to appoint deputy auditors, by a certificate in writing, who shall, before entering upon the duties of their office, take and subscribe the oath required by law, which oath shall be endorsed on the certificate of appointment, and filed in the office of the register of deeds. Such deputies are authorized to sign all papers and do all other things which county auditors themselves may do. The county auditors shall be responsible for the acts of their deputies, and may revoke their appointment at any time. They shall require bonds of their deputies in such amounts and with such sureties as they may deem proper.

(G. S. 1866, c. 8, § 119; G. S. 1878, c. 8, § 137.)

715
97 - 44

§ 716. Shall be clerk of board.

The county auditor shall, by virtue of his office, be clerk of the board of county commissioners of his county, and keep an accurate record of their official proceedings, and carefully preserve all the documents, books, records, maps, and other papers, required to be deposited or kept in his office, and prepare a financial statement of the county annually, unless otherwise ordered by the county commissioners.

(G. S. 1866, c. 8, § 120, as amended 1878, c. 7, § 1; G. S. 1878, c. 8, § 138.)

As to duties of clerk of the board, see *Supervisors Ramsey Co. v. Heenan*, 2 Minn. 330, 340, (Gil. 281, 292.)

Where a bond is required of a county treasurer at a time when the board of commissioners is not in session, he should deliver the bond to the county auditor. *State v. Sanderson*, 26 Minn. 335, 3 N. W. Rep. 984.

§ 717. Shall deliver money, books, papers, etc., to successors.

On going out of office he shall deliver up to his successor in office all the moneys, books, records, maps, documents, papers, vouchers, and other property in his hands belonging to the county; and in case of the death of any county auditor, his personal representatives shall, in like manner, deliver up all such books, moneys, records, maps, documents, and other property.

(G. S. 1866, c. 8, § 121; G. S. 1878, c. 8, § 139.)

§ 718. Shall keep account with treasurer.

He shall keep an accurate account current with the treasurer of his county; and when any person shall deposit with the auditor any receipt given by

the treasurer for any money paid into the treasury, the auditor shall file such receipt in his office, and charge the treasurer with the amount thereof.

(G. S. 1866, c. 8, § 122; G. S. 1878, c. 8, § 140.)

Cited, *Commissioners Hennepin Co. v. Jones*, 18 Minn. 199, 207, (Gil. 182, 189.)

§ 719. Claims, how allowed—Money, how disbursed.

No claims against the county shall be paid otherwise than upon the allowance of the county commissioners, upon the warrant of the chairman of the board, attested by the county auditor, except in those cases in which the precise amount is fixed by law, or is authorized to be fixed by some other person or tribunal, in which cases the same shall be paid upon the warrant of the county auditor, upon the proper certificate of the person or tribunal allowing the same: *provided*, that no public money shall be disbursed by the county commissioners, or any of them, but the same shall be disbursed by the county treasurer upon the warrant of the chairman of the board of county commissioners, attested by the county auditor, specifying the name of the party entitled to the same, on what account, and upon whose allowance, if not fixed by law; and all orders or warrants drawn in payment for services, shall show thereon the specific time for which such services are rendered, and all orders and warrants shall be progressively numbered, and the number, date, and amount of each, the name of the person to whom payable, the purpose for which drawn, and the specific time for which any service was rendered, shall at the time of issuing the same be entered in a book to be kept by the auditor for that purpose.

(G. S. 1866, c. 8, § 123; G. S. 1878, c. 8, § 141; as amended 1879, c. 13, § 1.)

Rights of parties where order payable to bearer is paid to wrong person, when past due. *Sweet v. Commissioners Carver Co.*, 16 Minn. 106, (Gil. 96.)
See *Board of Com'rs v. Nelson*, 51 Minn. 79, 52 N. W. Rep. 991.

§ 720. Salaries of auditors—Allowance for clerk hire.

The salary of the county auditors shall be regulated by the value of the property in their respective counties, as fixed by the state board of equalization for the preceding year, as follows: In counties where the amount of taxable property does not exceed the sum of one and one-half million dollars, they shall be entitled to receive six mills on each dollar of the first one hundred thousand dollars, and one mill on each dollar of all amounts in excess of said last-named sum, and less than two hundred thousand dollars, and one-third of one mill on each dollar on all amounts in excess of said last-named sum. In counties where the value of the taxable property for the preceding year, as fixed by the said board of equalization, exceeds the sum of one and one-half million dollars, the county auditor shall be entitled to receive five mills on each dollar of the first one hundred thousand dollars, and one-half of one mill on each dollar of all amounts in excess of said sum and less than two million dollars, and one-fifth of one mill on each dollar of all sums in excess thereof. In [all] counties where the valuation of taxable property exceeds one million dollars, the county auditor shall be allowed for clerk hire one-fifth of one mill on each dollar of such amount of taxable property not exceeding five million dollars, and on all sums in excess of five million dollars, one-twentieth of one mill on each dollar thereafter: *provided*, that no county auditor shall receive more than twelve hundred dollars per annum for his personal services in counties where the valuation does not exceed four million dollars, nor more than fifteen hundred dollars in counties where the valuation exceeds four million dollars, and does not exceed six million dollars, nor more than two thousand dollars in counties where such valuation exceeds six million dollars and does not exceed ten million dollars, nor more than two thousand five hundred dollars where such valuation exceeds ten million dollars. And all moneys received as fees or percentage in excess of the amounts provided for in this act shall be paid by the auditor, at the end of each year, into the revenue fund of:

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75-NW	8	
76-NW	223	
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01	-	318
01	-	376
79-M	-	380
82-NW	653	
720	'05	206
	'05	259

MINNESOTA STATUTES 1894

Tit. 5]

COUNTY TREASURERS.

§§ 720-724

the county: *provided*, that the county commissioners of Otter Tail county be and they are hereby authorized, in their discretion, to allow clerk hire for the auditor's clerks in said Otter Tail county, in any sum not to exceed fifteen hundred dollars per annum.

(G. S. 1866, c. 8, § 124, as amended 1877, c. 120, § 1; G. S. 1878, c. 8, § 142; 1881, c. 68, § 1; 1881, Ex. S. c. 44, § 1; 1887, c. 23.)

Laws 1877, c. 120, §§ 1-3, applicable to Kandiyohi county. 1881, c. 156.
Salary of auditor in Blue Earth county. Sp. Laws 1881, Ex. S. c. 222, § 2.

The auditor of Dodge county is entitled to no other compensation than the salary fixed by chapter 209, Sp. Laws 1872. *Bruce v. Commissioners Dodge Co.*, 20 Minn. 388, (Gil. 339.)

§ 721. Clerk hire, how paid.

The allowance for clerk hire in all cases shall be for actual services rendered, and shall be paid monthly to such clerk or clerks by the treasurer of the county, upon the order of the county auditor accompanied by his certificate that such services have been rendered; and in no case shall the county auditor be entitled to receive allowance for clerk hire, unless such service has been rendered.

(1877, c. 120, § 2, as amended 1878, c. 47, § 1; G. S. 1878, c. 8, § 143.)

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TITLE 5.

COUNTY TREASURERS.

§ 722. Each county to elect treasurer.

In each county there shall be elected a county treasurer, whose term of office shall commence on the first day of March next succeeding his election, and continue for two years, and until a successor is elected and qualified.

(G. S. 1866, c. 8, § 125; G. S. 1878, c. 8, § 144.)

Cited, *State v. Benedict*, 15 Minn. 198, 201, (Gil. 153, 153.)

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§ 723. Treasurer to take oath and give bond.

The county treasurer, before he enters upon the duties of his office, shall take the oath required by law, which oath shall be subscribed and certified on the back of the certificate of his election, and filed and recorded in the office of the register of deeds; and he shall give bond, with two or more sureties, freeholders, to be approved by the board of county commissioners, and in such sum as they direct, payable to the state of Minnesota, conditioned that such person shall faithfully execute the duties of his office, and for the safe-keeping and paying over, according to law, of all moneys which come into his hands for state, county, township, school, road, bridge, poor, town, and all other purposes, which bond shall be filed and recorded in the office of register of deeds in said county.

(G. S. 1866, c. 8, § 126, as amended 1877, c. 11, § 1; G. S. 1878, c. 8, § 145.)

See post, § 873.

The liability of a county treasurer on his bond is absolute, and the fact that money in his keeping is stolen from him without his fault does not exonerate him. *Commissioners Hennepin Co. v. Jones*, 18 Minn. 199, (Gil. 182.)

The sureties on the general bond of a county treasurer are not liable for his failure to pay over moneys collected by him on account of school and university lands. For such default, only his sureties on his special bond, required by G. S. 1878, c. 33, § 34, (see § 4000,) are liable. *State v. Young*, 23 Minn. 551.

The treasurer and his sureties, when sued on the bond, cannot set up as a defense their own omission to affix seals thereto. *County Commissioners v. Tower*, 28 Minn. 45, 3 N. W. Rep. 907.

The county commissioners may sue the treasurer, either on the bond or independent of it, for the conversion of county money, and recover for all funds converted, of either or any of the classes enumerated. *Commissioners Mower Co. v. Smith*, 22 Minn. 97.

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§ 724. Effect of failure to qualify.

If any person elected to the office of county treasurer shall not give bond and take oath, as required by the preceding section, on or before the fifteenth

MINNESOTA STATUTES 1894

§§ 724-728

COUNTIES AND COUNTY OFFICERS.

[Ch. 8

day of January next succeeding his election, it shall be deemed a refusal to serve.

(G. S. 1866, c. 8, § 127; G. S. 1878, c. 8, § 146.)

When failure to qualify upon re-election works a vacancy in office of county treasurer. *County of Scott v. Ring*, 29 Minn. 398, 13 N. W. Rep. 181.

725
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§ 725. Vacancy, how filled—Who are ineligible.

In case of a vacancy in the office of county treasurer, by death, resignation or otherwise, the board of county commissioners shall appoint some suitable person, a resident and qualified elector of their county, to be treasurer, who shall file the bond and take the oath prescribed by section one hundred and twenty-six aforesaid, and shall hold the office until a county treasurer is elected and qualified: provided, that no person who holds the office of county attorney, sheriff, register of deeds, county auditor, or county commissioner, at the time of said election, shall be eligible to said office of county treasurer.

(G. S. 1866, c. 8, § 128; G. S. 1878, c. 8, § 147.)

Cited, *State v. Benedict*, 15 Minn. 198, 203, (Gil. 153, 158.)

§ 726. Treasurer to have office at county seat, and keep books.

Each county treasurer shall keep his office at the county seat, and shall keep a fair and accurate account of all moneys by him received, showing the amount thereof, the time when, by whom, and on what account paid. He shall keep his books so as to show the amount received and paid on account of separate and distinct funds or appropriations, which he shall exhibit in separate accounts: provided that no money received for taxes charged in the duplicate of the current year shall be entered by the treasurer on his account with the county until he makes his annual settlement with the county auditor and commissioners in each year. The treasurer's books shall be provided at the expense of the county.

(G. S. 1866, c. 8, § 129; G. S. 1878, c. 8, § 148.)

§ 727. Receipt and payment of money.

The county treasurer shall receive all moneys directed by law to be paid to him as such treasurer, and shall pay them out only upon the order of the proper authority.

All moneys belonging to the county shall be paid out upon the order of the board of county commissioners, signed by the chairman thereof, and attested by the county auditor, (or upon the warrant of the county auditor, upon the presentation to him of the proper certificate of the person or tribunal allowing the same,) and not otherwise.

All moneys due the state, arising from the collection of taxes or from other sources, shall be paid upon the draft of the state auditor drawn in favor of the state treasurer, and a duplicate copy of the receipt for payment of such draft shall be forwarded by the state treasurer to the county auditor, who shall preserve the same, and credit the county treasurer with the amount thereof.

(G. S. 1866, c. 8, § 130; G. S. 1878, c. 8, § 149; as amended 1881, c. 11, § 1.)

When failure to pay draft drawn by state auditor in favor of state treasurer constitutes embezzlement, see *State v. Mims*, (1st Case,) 26 Minn. 183, 2 N. W. Rep. 492, 494.

§ 728. Board of auditors for counties—Their duties.

When any money is paid to the county treasurer, excepting that paid on account of taxes charged on duplicate, the treasurer shall give to the person paying the same, duplicate receipts therefor, one of which such person shall forthwith deposit with the county auditor, in order that the county treasurer may be charged with the amount thereof; and there is hereby created a board of auditors for each of said counties in this state, which board shall consist of the county auditor, chairman of the board of county commissioners, and clerk of the district court of either of said counties in this state, whose duty it shall be to carefully examine and audit the accounts, books and vouchers of the treasurer of their respective counties, and to count and

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ascertain the kind, description and amount of funds in the treasury of said county or belonging thereto, at least three times in each year, without previous notice to the treasurer, and make report thereof, and of their acts and doings in the premises; to the county commissioners at their next meeting after such examination, and to publish the result of such examination in one or more newspapers in their respective counties, and also to witness and attest the transfer and delivery of accounts, books, vouchers and funds by any out-going treasurer to his successor in office, and report the same to the board of county commissioners at their next meeting after the terms of office of any treasurer shall expire.

(G. S. 1866, c. 8, § 131, as amended 1873, c. 38, § 1; G. S. 1878, c. 8, § 150.)

Second. Deposit of public funds.

In effect superseded by § 729, post.

Third. Treasurer's books.

The treasurer shall keep the books of his office in such way and manner as to show plainly and accurately every receipt and disbursement or payment daily, and on the same day on which such receipts and payments, or either of them, actually occurs; and no unfinished business shall be kept or entered upon loose memoranda or slips of paper; and the said treasurer's books shall be balanced plainly and accurately every business day.

(G. S. 1866, c. 8, § 131; subd. third, as amended 1873, c. 38, § 1; G. S. 1878, c. 8, § 150, subd. third.)

Fourth. Security required of the public depositories.

In effect superseded by §§ 730, 731.

The provision requiring a deposit of the county funds applies to all the funds in the treasury, is valid, and not in conflict with § 12, art. 9, of the constitution. First Nat. bank of Stillwater v. Shepherd, 22 Minn. 196.

The depository may be selected before the execution of the bond, but this selection is not to become operative so as to authorize a deposit until the bond is given. Commissioners Meeker Co. v. Butler, 25 Minn. 363.

It is the duty of the treasurer to receive, keep, and disburse all money of the county in respect to which no specific provision is otherwise made; e. g. proceeds of the sale of county bridge bonds. He is not entitled to extra compensation therefor. Libby v. County of Anoka, 38 Minn. 443, 38 N. W. Rep. 205.

§ 729. County funds—Where deposited.

All the funds of any of the counties in this state shall be deposited by the county treasurer in one or more national banks, or state or private bank or banks, as soon as received, in the name of the proper county of which the board of auditors are officers. Such bank or banks or bankers shall be designated by said board of auditors, in their discretion, after advertising in one or more newspapers published in their respective counties (or, if the public interests require, in one or more newspapers in other counties) of the state, for at least two weeks, for proposals and receiving proposals, stating what security would be given to said county for such funds so deposited, and what interest on monthly balances of the amount deposited, on condition that said funds, with accrued interest, shall be held subject to draft and payment at all times, on demand. If the board of auditors, at any time after having made such designation, for good and sufficient cause, deem the surety given insufficient, it may require a new bond; and if, in its opinion, the public interests require, it may vacate, revoke, or modify its designation of a depository in any way, and may advertise and again designate a depository or depositories as above: *provided*, that the amount deposited in any bank or banking-house shall not exceed the assessed capital stock of said bank or banking-house as shall appear on the tax-list of the counties. Capital stock, for the purposes of this act, shall be defined as follows: As including shares of capital stock of national or state banks, whether assessed in the name of the bank or of the stockholders thereof; and as including the personal and real-estate property of private banks or bankers, or the individual members of said banking firms, which

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property is liable for the debts of said banks or bankers, and is assessed upon the tax-lists of any county in this state. In case such property is assessed in counties other than those in which the depository is situated, the assessment shall be certified to by the auditor of the county in which the same is assessed, on application of the board of auditors of any county; and such application shall be renewed annually on the first day of January, and oftener, if deemed necessary; and such certificate shall be attached to the bond of such depository. The treasurer is required, from time to time, to take notice of any changes in the assessment, and to limit the amount of the deposits by such changes in accordance with the provisions of this act: *provided*, that when a bank has been duly organized after an annual assessment in any one year, and before the assessment for the following, the paid-up capital and assets of said bank, less its liabilities, as may appear from the sworn statement of the president or cashier thereof, may be treated as assessed capital.

(1881, c. 124, § 1, as amended 1883, c. 51, § 1; G. S. 1878, v. 2, c. 8, § 150a.)
 No other security than the bond prescribed is contemplated as a condition for receiving deposits. *Van Vlissingen v. Board of County Com'rs*, 54 Minn. 555, 56 N. W. Rep. 251.

§ 730. Bonds of depository.

Before any national, state, or private bank or banker shall be designated as such depository, such bank or banker shall deposit with such treasurer a bond payable to such county, and signed by not less than five freeholders of the state as sureties, which bond shall be approved by the board of county commissioners, and shall be in such amount as such board shall direct, which amount shall be at least double the amount of funds to be deposited with such bank or banker. It is hereby made the duty of the officers designated, and also of the board of county commissioners of the several counties of the state, to comply with all the provisions of this act: *provided*, that counties in which there are no such bank or bankers may be exempt from the provisions of this act, so far as it relates to depositing the funds of such counties with any such bank or bankers, if, in judgment of the auditing board and board of county commissioners of any such county, it would be detrimental to the interest of such county to make such disposition: *and provided, further*, that in the county of Carver the funds of said county may be deposited with any banker or bankers residing in said county and doing business as a banker therein, notwithstanding the amount of the valuation of the property of such banker or bankers, so long as there is no incorporated bank in said county, if the board of county commissioners of said county shall not otherwise direct, and such banker or bankers shall execute to said county a bond (in addition to the one now required by law) in such sum and with such conditions and sureties as the state examiner of this state shall fix, prescribe, and approve; and shall also, in all other respects, comply on his part with the provisions of this chapter.

(1881, c. 124, § 2, as amended 1881, Ex. S. c. 43, § 1; G. S. 1878, v. 2, c. 8, § 150b.)

§ 731. Same—Proposals by banks.

All bonds required under the provisions of this act shall be given for the term of two years from the date of their execution, and shall be renewed every two years thereafter. The boards of auditors of all the counties having no depositories designated under this act, or not having statutory bonds under this act, shall advertise as herein provided for proposals for the deposit of their funds, such proposals to be opened on the first day of July, 1881. Bonds of depositories now legally in force shall expire on the first day of August, eighteen hundred and eighty-three. But this section shall not be construed as preventing boards of auditors in counties having no depositories from advertising for proposals and designating depositories at any time when the public interests may so require. Whenever, by reason of change in the

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organization of any bank or banking firm which is a legally designated depository of the public funds, said corporation or firm has ceased to exist, the board of auditors of the proper county are authorized to accept the bond of its successor in the amount and for the unexpired term of the original bond, without advertising and receiving proposals anew; and the commissioners of the county are authorized to approve the same.

(1881, c. 124, § 3, as amended 1887, c. 84; G. S. 1878, v. 2, c. 8, § 150c.)

§ 732. Who ineligible as sureties.

The boards of auditors shall not accept, and the boards of commissioners shall not approve, as sureties upon the bonds of depositories, the names of stockholders or of owners of such depositories unless they are satisfied upon full investigation that their responsibility would in nowise be affected by the failure of the bank or banker in behalf of which said stockholders or owners sign as sureties.

(1881, c. 124, § 4; G. S. 1878, v. 2, c. 8, § 150d.)

§ 733. Deposit to be in official capacity.

No county treasurer shall deposit in any bank, or with any banker, whether designated under the provisions of this act or not, or in any other place whatever, any public funds in his own individual name, or except in his capacity as treasurer of the county, under the penalty of five hundred dollars for each deposit so made.

(1881, c. 124, § 5; G. S. 1878, v. 2, c. 8, § 150e.)

§ 734. Shall keep public funds separate from private funds.

The public funds shall at all times be kept absolutely intact and free from any mixture with funds belonging to the treasurer as a private person, or in any other capacity, or to any other person or firm, and all amounts found at any time in any of the county treasuries of the state, or officially deposited by the county treasurers, shall be deemed public funds, and if in excess of the amount properly called for by the auditor's and treasurer's books and accounts, shall be turned over by the board of auditors of said county, or by the public examiner, into the county revenue fund.

(1881, c. 124, § 6; G. S. 1878, v. 2, c. 8, § 150f.)

§ 735. Shall make payment by check, when—Account by depository—Interest on deposits.

All payments by treasurers of counties having designated depositories at their county-seat, and by all treasurers as far as practicable, shall be made by checks upon the depositories.

Each depository designated under the provisions of this act shall furnish the auditor of the county to which the funds belong a true and itemized statement of the treasurer's account on the first day of each month, which statement shall be filed and carefully preserved in the auditor's office.

All sums of interest accruing upon the funds deposited in any bank, or with any banker, under the provisions of this act, shall be credited to such deposit account on the first day of each month, for the month preceding, and a monthly statement of such interest, as computed from the daily balances by the bank or banker, shall be rendered by such depository to the county auditor on the first day of each month, and the auditor shall charge the county treasurer with the amount thereof, and credit the same to the revenue fund of the county.

(1881, c. 124, § 7; G. S. 1878, v. 2, c. 8, § 150g.)

§ 736. Repeal of inconsistent acts.

All acts and parts of acts inconsistent with the provisions of this act are hereby repealed: *provided*, that such repeal shall not be considered as alter-

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MINNESOTA STATUTES 1894

§§ 736-742

COUNTIES AND COUNTY OFFICERS.

[Ch. 8

ing or impairing the validity or obligations of any bonds of depositories now legally in force, except as to the date of their expiration, as provided in section three of this act.

(1881, c. 124, § 8; G. S. 1878, v. 2, c. 8, § 150h.)

§ 737. Compensation of board of auditors.

The board of auditors shall each be entitled to the sum of three dollars for each day actually employed in the discharge of their duties under this act, to be paid upon allowance by the board of county commissioners in the same manner as other claims are paid.

(1873, c. 38, § 2; G. S. 1878, c. 8, § 151; as amended 1881, c. 48, § 1.)

§ 738. Penalty of neglect of duty by any member.

Any member of the board of auditors hereby created, or of the board of county commissioners, who shall neglect or omit to discharge any of the duties imposed by this act, shall be deemed guilty of a misdemeanor and upon conviction shall be liable to a fine of not less than one hundred dollars and not more than five hundred dollars.

(1873, c. 38, § 3; G. S. 1878, c. 8, § 152.)

§ 739. Exemption from liability for funds.

Whenever any portion of the funds of any county shall be deposited by any county treasurer in the manner as provided in this act, such treasurer and the sureties on his bond shall be exempt from all liability thereon by reason of the loss of any such deposited funds from the failure, bankruptcy, or any other acts of any such bank or banker, to the extent and amount of such funds in the hands of such bank or banker at the time of such failure or bankruptcy.

(1873, c. 38, § 4; G. S. 1878, c. 8, § 153.)

§ 740. Treasurer to exhibit accounts to commissioners.

On the last day of February and tenth day of October in each year, the treasurer shall exhibit his accounts since the last settlement, balanced to said day, to the board of commissioners and county auditor; and in the event of the board of commissioners not being in session, then to the county auditor alone, showing all the moneys received and disbursed by him since his last settlement, and the balance remaining in his hands. The books, accounts and vouchers of the treasurer, and all moneys remaining in the treasury, shall at all times be subject to the inspection and examination of the board of county commissioners, or any committee thereof.

(G. S. 1866, c. 8, § 132; G. S. 1878, c. 8, § 154.)

Cited, Commissioners of Mower County v. Smith, 22 Minn. 97, 113.

§ 741. To make settlement, when.

The county treasurer shall, on the last day of February and on the tenth day of October in each year, make settlement with the board of commissioners, or with the county auditor of his county, and at such settlement in February return to said auditor the tax duplicate for the current year, showing the amount which remains unpaid thereon.

(G. S. 1866, c. 8, § 133; G. S. 1878, c. 8, § 155.)

§ 742. When settlement between auditor and treasurer to be made.

The county treasurer shall, on the last day of February, the fifteenth day of June and the tenth day of October, in each year, make settlement with the auditor of the county, and on the fifteenth day of March, and the first day of November, in each year, the county treasurer shall send by express from the nearest public express office, to the state treasurer, all moneys by him received for state purposes, according to the last certificate of his settlement with the auditor of his county; and the state auditor is hereby authorized to draw upon any county treasurer in favor of the treasurer of state, for any moneys in the county treasury belonging to the state, at any time after the June settlement in each year, as herein provided for; and the county treas-

urer shall pay such drafts to an amount equal to the June certificate of settlement with the auditor of his county, and the state treasurer shall give duplicate receipts for the money so paid, one of which he shall deposit with the state auditor; and the county treasurer is hereby required to pay over to any town, city or school district treasurer any money found to be in the county treasury at either of the within named settlements, belonging to any town, city, road or special school fund, or other fund, in the manner required by law, and to take duplicate receipts therefor, one of which he shall transmit by mail, on or before the fifteenth day of March next thereafter, to the clerk or recorder of the town, city or school district, to which treasurer the money is paid, which receipt shall be filed and safely kept by said clerk or recorder in his office.

(G. S. 1866, c. 8, § 134, as amended 1869, c. 34, § 1; G. S. 1878, c. 8, § 156.)

Failure or refusal to pay draft drawn by state auditor, when constitute embezzlement on part of county treasurer. *State v. Mims*, 26 Minn. 188, 2 N. W. Rep. 492, 494.

§ 743. Failure to settle—Penalty.

If any county treasurer fails to make settlement with the state treasurer within fifteen days of the time herein prescribed, he shall forfeit and pay the sum of one hundred dollars, in addition to the penalties provided in the next section, to be recovered in a civil action, which forfeiture shall be paid into the state treasury to the credit of the common school fund: provided, that the auditor of state, at any time before an action is commenced, may, for good cause shown, remit said penalty.

(G. S. 1866, c. 8, § 135; G. S. 1878, c. 8, § 157.)

§ 744. Action against treasurer.

If any county treasurer fails to make return or settlement, or to pay over all money with which he stands charged, at the time and in the manner prescribed by law, the county auditor, on receiving instructions for that purpose from the auditor of state, or from the county commissioners of his county, shall cause an action to be commenced against such treasurer and his sureties, in the district court of his county; and judgment may be rendered therein against them for the amount due from such treasurer, with interest, and a penalty of ten per centum thereon.

(G. S. 1866, c. 8, § 136; G. S. 1878, c. 8, § 158.)

For illustrative cases brought under this section, see *Commissioners of Hennepin County v. Jones*, 18 Minn. 199, (Gil. 182); *Commissioners of Mower County v. Smith*, 22 N. W. Rep. 97.

The action may be prosecuted without leave of court. *County of Waseca v. Sheehan*, 42 Minn. 57, 43 N. W. Rep. 690.

Neither the negligence nor malfeasance of the county board, encouraging the conversion of county funds by the treasurer, is a defense. *Id.*

§ 745. Removal of treasurer.

Whenever an action is commenced against any delinquent county treasurer, as aforesaid, the county commissioners may, at their discretion, remove such treasurer from office, and appoint some one to fill the vacancy thereby created, as hereinbefore provided.

(G. S. 1866, c. 8, § 137; G. S. 1878, c. 8, § 159.)

§ 746. Money collected of delinquent treasurer.

The sheriff or other officer who collects any money from a delinquent county treasurer or his sureties, shall, within ten days after the collection thereof, pay the same into the treasury of the county to which such money is due.

(G. S. 1866, c. 8, § 138; G. S. 1878, c. 8, § 160.)

§ 747. Refusal of officer to execute process against treasurer, etc.

If any sheriff or other officer to whom an execution against a delinquent treasurer and his sureties is delivered; neglects or refuses to execute the same, or neglects or refuses to pay over any money collected thereon, as required in the preceding section, he and his sureties shall be liable to the same

MINNESOTA STATUTES 1894

§§ 747-751

COUNTIES AND COUNTY OFFICERS.

[Ch. 8

penalties, and shall be proceeded against in the same manner as is herein provided in relation to delinquent treasurers.

(G. S. 1866, c. 8, § 139; G. S. 1878, c. 8, § 161.)

§ 748. Proceedings against deputy treasurer.

If the deputy treasurer fails to pay over to his principal, on demand, any taxes or other money by him collected as deputy treasurer, the same proceedings may be had against him and his sureties, at the instance of the treasurer, as are by his title authorized against treasurers for failing to make payment according to law.

(G. S. 1866, c. 8, § 140; G. S. 1878, c. 8, § 162.)

§ 749. New bond may be required.

The county commissioners may require the county treasurer to give a new bond with sureties to be approved by them, whenever, in the opinion of a majority of said commissioners, the sureties, or any of them, on the original bond are deemed insufficient for any cause, and may also require a new bond, with sureties to be approved by them, whenever the penalty of such original bond is deemed insufficient: provided, that when a new bond is taken under the provisions of this section, the original bond, and the rights and liabilities of the parties thereto, incurred or existing at or prior to the time of the approval and acceptance of such new bond, shall not be anywise affected or impaired.

(G. S. 1866, c. 8, § 141; G. S. 1878, c. 8, § 163.)

And see ante, § 729.

§ 750. Effect of failure to give new bond.

If any county treasurer fails or refuses to give such additional bond, for and during the time of ten days from and after the day on which said commissioners require said treasurer so to do his office shall be considered vacant, and another treasurer shall be appointed, agreeably to the provisions of section one hundred and twenty-eight of this title.

(G. S. 1866, c. 8, § 142; G. S. 1878, c. 8, § 164.)

Upon failure to give the new bond for ten days, the office becomes *ipso facto* vacant. No judicial determination is needed. The commissioners should proceed at once to appoint another treasurer. *State v. Sanderson*, 26 Minn. 335, 3 N. W. Rep. 984.

§ 751. Not to speculate in orders or warrants.

No county treasurer or deputy county treasurer shall either directly or indirectly contract for or purchase any orders or warrants issued by the county of which he is treasurer, or any state warrants or town orders, or of any city, town or other body politic for which he is the collector of taxes, at any discount whatever upon the sum due on such orders or warrants; and if any treasurer or deputy treasurer directly or indirectly contracts for, purchases or procures any such orders or warrants, at any discount whatever upon the sum for which the same are respectively issued, he shall not be allowed on settlement the amount of said warrants or orders, or any part thereof, and shall also forfeit the whole amount due on such warrants or orders, and shall also forfeit the sum of one hundred dollars for each and every breach of the provisions of this section, to be recovered in a civil action at the suit of the state for the use of the county. And the treasurer of state, or the person to whom the county treasurer of any county is required to return the state, county, township, city, town, village, school or road tax is hereby respectively prohibited from receiving from any county treasurer any orders, warrants or bonds in payment of taxes collected by him or his deputies, unless, with said orders, warrants or bonds, said county treasurer shall file his affidavit with the treasurer of state or the person entitled to receive said tax, stating therein that all such orders, warrants and bonds were received at their par value; and whoever swears falsely in such affidavit is guilty of perjury, and, upon conviction, shall be punished by confinement in the state prison not more than three years.

(G. S. 1866, c. 8, § 143; G. S. 1878, c. 8, § 165.)

§ 752. Not to loan county funds.

If any county treasurer loans any money belonging to his county with or without interest, or uses the same for his own individual purpose, he shall forfeit and pay for every such offence a sum not exceeding one thousand dollars, nor less than five hundred dollars, to be recovered in a civil action at the suit of the state, for the use of the county, city, town or body politic injured.

(G. S. 1866, c. 8, § 144; G. S. 1878, c. 8, § 166.)

It does not follow that, because the county treasurer is prohibited from speculating in or loaning or using the county funds, he therefore becomes a simple bailee of the county. He is a debtor, not a mere bailee. *Commissioners of Hennepin County v. Jones*, 18 Minn. 199, 207, (Gil. 182, 189.)

§ 753. To publish statement of county affairs—Penalty for making false statement.

The treasurer and auditor of every county conjointly shall make out and cause to be published, in at least one newspaper of general circulation in the county in and for which they are such treasurer and auditor, a statement of the exact amount of money remaining in the treasury of such county on the last day of February and tenth day of October in every year, and oftener if the commissioners of the county direct, particularly specifying in such statement the amount belonging to each particular fund, together with all other property, bonds, securities, claims, assets and effects belonging to the county, in the custody or under the control of such treasurer. Such statement shall be signed by said county treasurer and auditor, and the expense of such publication shall be paid out of the county treasury, on warrants drawn by the chairman of the board of county commissioners, and attested by the county auditor, particularly specifying the same; and if at any time it is found that such statement was untrue or false in regard to the amount of money or other property then on hand and in the treasury, the said treasurer and said auditor making the same shall, without regard to lapse of time, be deemed guilty of a misdemeanor, and, on conviction thereof, shall be sentenced to pay a fine of not less than one hundred dollars nor more than five hundred dollars.

(G. S. 1866, c. 8, § 145; G. S. 1878, c. 8, § 167.)

An act legalizing a previously unauthorized publication held valid. *Fuller v. County*, 36 Minn. 309, 30 N. W. Rep. 824.

§ 754. To prosecute bonds.

The treasurers of the several counties may, in their official capacity, prosecute to final judgment and execution all actions on bonds, notes, or other securities given to them or their predecessors in office, and all actions commenced by their predecessors in office, and pending at their removal therefrom.

(G. S. 1866, c. 8, § 146; G. S. 1878, c. 8, § 168.)

§ 755. To pay and cancel orders.

The county treasurer, when any order or warrant drawn on him as treasurer, either by the county auditor or signed by the chairman of the board of county commissioners, and attested by the auditor, is presented for payment, shall, if there is money in the treasury for that purpose, redeem the same, and shall write across the entire face of all such orders and warrants, and in such way as to effectually cancel the same and prevent their being again issued, the word "Redeemed," the date of the redemption, and his official signature. County orders properly drawn and attested shall be entitled to preference as to payment according to the time when presented, of which a record shall be kept by the county treasurer, and upon receipt of money into the treasury the treasurer shall appropriate and set apart the money necessary for the payment of the county orders so presented and registered, and if entitled to interest the treasurer shall issue to the original holder thereof a notice that interest shall cease in thirty days from the date of such notice, and if orders thus entitled

MINNESOTA STATUTES 1894

§§ 755-758

COUNTIES AND COUNTY OFFICERS.

[Ch. 8

to priority of payment are not then presented the next in order of registry may be paid until such orders are presented. No interest shall be paid on any order except upon a warrant drawn by the county auditor for the purpose, giving the number and date of the order on account of which the interest warrant is drawn.

(G. S. 1866, c. 8, § 147; G. S. 1878, c. 8, § 169; as amended 1879, c. 33, § 1.)

As to the power to issue county orders under Rev. St. 1851, c. 8, p. 65, see *Goodnow v. Commissioners of Ramsey County*, 11 Minn. 81, (Gil. 12.)

When payment of order by treasurer, in good faith, discharges county, notwithstanding order is past due and holder's title defective, see *Sweet v. Commissioners of Carver County*, 16 Minn. 106, (Gil. 96.)

§ 756. To deposit orders—Auditor's duty.

The treasurer shall deposit with the auditor of his county on the day of redemption all orders and warrants on the treasury by him redeemed, and he may take the auditor's receipt therefor. He shall enter the same, with date of payment, in his register of orders paid, and credit himself daily upon his journal and ledger with the amount thereof. The auditor shall cancel the same immediately upon his register of orders issued, and at the close of the day credit the treasurer with the same upon his journal and ledger.

(G. S. 1866, c. 8, § 148; G. S. 1878, c. 8, § 170; as amended 1879, c. 33, § 1.)

§ 757. To be allowed express charges, when.

Express charges shall be paid for forwarding state moneys, and mileage allowed to each county treasurer for traveling fees in going to and returning from the nearest express office, in order to send by express to the state treasurer the moneys received by him for state purposes, at the rate of ten cents per mile, to be computed by the auditor of state, according to the distance on the nearest post route.

(G. S. 1866, c. 8, § 149; G. S. 1878, c. 8, § 171.)

§ 758. Compensation of county treasurers.

The county treasurer shall be allowed, at the time of his settlement, all sums paid by him for printing such advertisements as he is required, at the rates prescribed by law, and all the sums paid by him for blank-books and stationery necessarily used in his office; and shall receive for his services one-half of one per cent. as fees for receiving and disbursing all moneys on account of sales of school lands or the payment of interest on school lands, to be paid him upon the warrant of the state auditor; and all other moneys by him collected or received as such county treasurer for each year's services, as follows: Four and one-half cents on each dollar for the first ten thousand dollars, three cents on each dollar on the second ten thousand dollars, and two cents on each dollar on all sums over twenty thousand dollars and less than sixty thousand dollars, and one per cent. on each dollar on all sums over sixty thousand dollars, to [be] paid on the warrants of the county auditor out of the revenue fund of the county: *provided*, that no compensation be allowed the treasurer on any moneys received from his predecessors in office or his legal representatives, or on any moneys received from the current school fund of the state apportioned by the superintendent of public instruction: *provided*, that no treasurer shall receive more than twelve hundred dollars for his personal services in any one year, in counties where the valuation of taxable property is less than four million dollars; nor more than fifteen hundred dollars in counties where the valuation of the taxable property exceeds four million dollars and does not exceed six million dollars; nor more than two thousand dollars where such valuation exceeds six million dollars and does not exceed ten million dollars; nor more than two thousand five hundred dollars where such valuation exceeds ten million dollars; and all moneys received as fees or percentage, in excess of amount provided for in this act, shall be paid by the county treasurer, at the end of each year, into the revenue fund of the county: *provided*, that the county commissioners of Otter Tail county

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may, in their discretion, allow the county treasurer of said Otter Tail county such sums as they shall deem just, not to exceed in any one year the sum of twelve hundred dollars, for clerk hire in the treasurer's office and for clerk hire and expenses in visiting towns in said county to collect personal property tax: *provided, further*, that whenever the salary of the county treasurer is limited to a fixed sum by the second proviso of this section, said fixed sum shall be paid in the manner provided above, at the end of each month, in twelve equal installments, and no treasurer receiving pay for his services under said second proviso, whose salary cannot be certainly and exactly fixed at the beginning of his official year, shall receive more than one-twelfth of his annual salary at the end of each month as carefully estimated and recorded by the board of county commissioners at their January meeting in each year, and the balance of the year's pay found to be legally due the treasurer shall be paid him on the computation of said board of commissioners at their next January meeting.

G. S. 1866, c. 8, § 150, as amended 1873, c. 39, § 1; 1875, c. 27, § 2; 1877, c. 120, § 3; G. S. 1878, c. 8, § 172; 1881, c. 38, § 1; Id. c. 68, § 2; 1885, c. 16; Id. c. 89; 1887, c. 31.)

Laws 1877, c. 120, §§ 1, 2, 3, applicable to Kandiyohi county. Laws 1881, c. 156. For salary of treasurer of Blue Earth county, see Sp. Laws 1881, Ex. S. c. 222, § 3.

Where the valuation of taxable property exceeds six million dollars, and does not exceed eight million dollars, the treasurer is entitled to the full amount of the percentages, as the proviso does not cover such a case. *Doe v. County of Washington*, 30 Minn. 392, 15 N. W. Rep. 679.

When appointed for a period less than a year, the treasurer is entitled to the percentage on moneys collected by him, though it exceeds the proportionate amount, for such part of a year, as limited by the proviso. *Beatty v. County of Sibley*, 32 Minn. 470, 21 N. W. Rep. 548.

County treasurer not entitled to an allowance for his board, traveling expenses, and clerk hire, when required by the county commissioners, under Laws 1877, c. 97, to visit certain localities in the county for the collection of taxes. *Yost v. Commissioners of Scott Co.*, 25 Minn. 367.

See, also, *Commissioners of Hennepin County v. Jones*, 18 Minn. 199, 201, (Gil. 182, 184.) The county treasurer's salary is in full for his services, and he may not retain the fees and percentage allowed for handling the proceeds of the state lands. *Gerken v. County of Sibley*, 39 Minn. 433, 40 N. W. Rep. 508.

See *Libby v. County of Anoka*, cited in note to § 728.

§ 759. To deliver money, books, etc., to successor.

Each county treasurer, on going out of office, shall deliver to his successor in office all the public money, books, accounts, papers and documents in his possession; and in case of the death of any county treasurer, his legal representatives shall in like manner deliver up all such moneys, books, accounts, papers and documents as come into their possession.

(G. S. 1866, c. 8, § 151; G. S. 1878, c. 8, § 173.)

No demand on the part of the successor in office is essential. *Commissioners of Redwood Co. v. Tower*, 28 Minn. 45, 8 N. W. Rep. 907.

Refusal or improper neglect to pay over constitutes embezzlement. *State v. Ring*, 29 Minn. 85, 11 N. W. 233.

TITLE 6.

REGISTERS OF DEEDS.

See §§ 2323-2325 for "book of plat certificates."

§ 760. Election-term of office.

In each county there shall be elected a register of deeds, whose term of office shall be two years and until his successor is elected and qualified, who shall hold his office at the county seat of the county in which he shall have been elected.

(G. S. 1866, c. 8, § 152, as amended 1868, c. 38, § 1; G. S. 1878, c. 8, § 174.)

See *State v. Weld*, 39 Minn. 426, 40 N. W. Rep. 561.

§ 761. To take oath and give bond.

Every register of deeds, before he enters upon the duties of his office, shall take and subscribe the oath prescribed by law, which said oath shall be indorsed on the certificate of his election or appointment, and he shall also give a bond, payable to the state of Minnesota, with good and sufficient sureties, in the penal sum of five thousand dollars, to be approved by the board of county commissioners of his county, conditioned that he will faithfully and impartially fulfill the duties of his office. Said bond and oath of office shall be recorded in the office of the clerk of the district court of the county in which said register's office shall be situated, and forwarded by said clerk to the secretary of state.

(G. S. 1866, c. 8, § 153; G. S. 1878, c. 8, § 175; as amended 1879, c. 3; 1881, c. 60, § 1; 1883 c. 47, § 1.)

As to the qualifying of the register under Rev. St. 1851, see *Harkins v. Sencerbox*, 2 Minn. 344, (Gil. 297.)

§ 762. To deliver records to successor.

Every register of deeds, at the expiration of the term for which he was elected, or appointed, on application by his successor duly elected or appointed, and qualified as aforesaid, shall deliver over promptly all books, records, papers, and other property pertaining to his office; and if, on such application, he refuses to surrender up all books, records, and other property and papers belonging to said office, he shall forfeit and pay, to the use of the proper county, fifty dollars for each and every day he so refuses, which may be recovered in an action brought upon his official bond.

(G. S. 1866, c. 8, § 154; G. S. 1878, c. 8, § 176.)

Cited, *State v. Benedict*, 15 Minn. 193, 203, (Gil. 153, 159.)

§ 763. To keep reception books.

Every register of deeds shall keep two books, to be denominated respectively the grantor's and the grantee's reception book, each page of which shall be divided into seven columns in the following form, viz:

Date of reception, year, day, hour, and minute.	Grantor.	Grantee.	Where situated.	To whom delivered after record.	Fees received.	Book and page where recorded, and kind of instrument.
Date of reception, year, day, hour, and minute.	Grantee.	Grantor.	Where situated.	To whom delivered after record.	Fees received.	Book and page where recorded, and kind of instrument.

The register shall enter in each of said books, in the order and manner aforesaid, as soon as the same are received, all deeds and other instruments left for record, and all copies left as cautions or notices of liens, authorized by law to be recorded; and when mortgages are discharged in whole or in part, by an acknowledgment of satisfaction written on the margin of the page where the mortgage is recorded, the register shall note the fact by writing the word "satisfied," or "satisfied in part," as the case may be, across the entry in the reception books, where the instrument satisfied is entered, and the other particulars in their appropriate columns. The pages of each of the said reception books shall be lettered in alphabetical order, a convenient number of consecutive pages being allotted to each letter of the alphabet, and each and every entry made in the said books as aforesaid shall be made in the grantor's reception book under the letter which is the initial letter of the grantor's surname, and in the grantee's reception book, under the letter which is the initial letter of the grantee's surname; and all the entries under each letter shall appear upon said books consecutively, and in the order as to time in which the instruments were received. The said register shall make an entry in the record immediately after the copy of every instrument recorded, specifying the time of the day, month, and year, when the same

*§ 2 repeals Laws 1879, c. 3, relating to register of deeds.

was recorded, and shall also certify upon each instrument recorded by him, the time when it was recorded, and the book and page in which it was recorded, and every instrument shall be considered as recorded at the time so noted.

(G. S. 1866, c. 8, § 155; G. S. 1878, c. 8, § 177.)

The column headed "where situated" was designed to contain a description of the land so that any person making a search could ascertain from the reception books whether a grantor had made any conveyance. A register who fails to insert the descriptions in this column is not entitled to any compensation from his county for keeping the reception books. *Mapes v. Commissioners of Olmsted County*, 11 Minn. 367, (Gil. 264.) See, also, *Gaston v. Merriam*, 33 Minn. 271, 276, 22 N. W. Rep. 614.

Where it is claimed that the description of the premises contained in a lost deed is incorrectly described in the full record, it is competent to introduce in evidence the description contained in the entry made in the reception book also, in connection therewith, to show that the grantor owned the property described in the reception book, but had no title to that described in the full record. *Gaston v. Merriam*, 33 Minn. 271, 22 N. W. Rep. 614.

The provision goes no farther, at most, than to make the certificate, either with or without the entry after the record, provided for in this section, conclusive as to the time of the receipt and record of an instrument recorded. *Thorp v. Merrill*, 21 Minn. 336, 339.

Under chapter 2, Laws 1857, a register of deeds is entitled to compensation from his county for making the entries in the reception books provided for by that chapter. *Hough v. Commissioners of Ramsey County*, 9 Minn. 23, (Gil. 11.) Registers of deeds are not entitled to compensation from the county for keeping the reception books required by this section. *Nordin v. Commissioners of Kandiyohi Co.*, 23 Minn. 171; *distinguishing: Hough v. Ramsey County*, 9 Minn. 23, (Gil. 11.) and *Mapes v. Olmsted County*, 11 Minn. 367, (Gil. 264.)

Purchasers are not charged with notice of entries not required to be made. *Ahern v. Freeman*, 46 Minn. 156, 43 N. W. Rep. 677.

The statute not requiring a column to be headed "Description of Property," it is immaterial that in a column so headed nothing but "See Record" appeared. *Whitacre v. Martin*, 51 Minn. 421, 53 N. W. Rep. 806.

The presumption is that an instrument is recorded on the day received. *Id.* See *Hill v. Gill*, 40 Minn. 441, 443, 42 N. W. Rep. 294.

§ 764. To keep tract index books—Compensation—Where kept—Duty of register.

The county commissioners of every county in this state are hereby authorized to procure, at the expense of their counties respectively, and keep in the office of the register of deeds of such county, a suitable book or books, substantially bound, and so ruled and arranged that opposite to the description of each section of land or sectional lot, and town, city or village lot and block (which description shall be arranged in numerical order) shall be a blank space, of a convenient size, in which shall be entered the letter or letters, numeral or numerals, indicating the volume of the records referred to, designating deeds by the letter "D," and mortgages by the letter "M," (or deeds may be designated from mortgages by being minuted in black ink, and mortgages minuted in red ink), and other records by appropriate initials or abbreviations, together with the page of the volume upon which each and every record affecting or encumbering the titles to the whole or any part thereof may be found. And such county commissioners shall pay for making such entries in such books, a sum not exceeding two cents for each necessary entry or description in such book or books as to all entries made therein of records of instruments which were recorded prior to the making of such tract index. After such tract index shall have been made, it shall be kept in the office of the register of deeds, as one of the records of such office, and the register of deeds is hereby required to note in such tract index a like minute of every instrument affecting the title to any land which shall be filed for record in such county, such minute to be made opposite to each parcel of land the title to which is or may be affected by such instruments: provided, that in case there now is any accurate tract index or abstract of title in any county in this state owned by any individual, the county commissioners may purchase such tract index or abstracts instead of causing a tract index to be made, and thereafter the register of deeds shall make the appropriate entries therein of each instrument filed, or filed for record in his office, and relating to real estate, and shall receive a fee of ten cents for

MINNESOTA STATUTES 1894

§§ 764-767

COUNTIES AND COUNTY OFFICERS.

[Ch. 8

indexing each transfer of deeds and mortgages hereafter, the same to be paid by persons presenting the same for filing, for record or discharging an instrument on the margins of record, and shall make abstracts for persons demanding the same at a fee of fifteen cents for each transfer.

(1871, c. 93, § 1, as amended 1873, c. 42, § 1; G. S. 1878, c. 8, § 178.)

§ 765. To exhibit records free of charge—Bond from abstractor—Fees payable in advance.

The register shall exhibit free of charge, during the hours that his office is, or is required by law to be, open, any of the records or papers in his official custody, to the inspection of any person demanding the same, either for examination, or for the purpose of making or completing an abstract or transcript therefrom: *provided*, that whenever, in the opinion of the board of county commissioners, it is for the benefit of the people of their county, that any person, company, or corporation, who has or may have a set of abstracts of title, should be permitted to occupy any part of the county building for an office, such board may, by resolution, give such person, company, or corporation permission so to do. And in every such case such board shall require of such person, company, or corporation a bond in a sum not less than five hundred dollars, nor more than five thousand dollars, with two or more sureties, to be approved by the commissioners, conditioned that such person, company, or corporation will handle all public records belonging to the county with due care, and will not charge any greater fee for making abstracts than is or may be allowed the register of deeds for like services, and for the faithful performance of his duty as an abstractor: *provided, further*, that nothing contained in this act shall be construed as giving any person the right to have or use the said records for the purpose of making or completing an abstract or transcript therefrom when it would interfere or hinder the register of deeds in the performance of his official duties, or as permitting any person to take any of said records from the register of deeds' office without his consent. But no register of deeds is bound to record any deed, mortgage, or other instruments unless the fees therefor are tendered him in advance.

(G. S. 1866, c. 8, § 156, as amended 1876, c. 72, § 1; G. S. 1878, c. 8, § 179; 1885, c. 116.)

In Blue Earth county, fees over \$1,200 to be paid into county treasury. Sp. Laws 1881, c. 222, § 4.

The right of inspection under the section as amended in 1885, is not limited to persons interested in the records. *State v. Rachac*, 37 Minn. 372, 35 N. W. Rep. 7.

§ 766. To keep record books, indexes, etc.

He shall keep suitable books, and record at large and in full, word for word, any and all instruments left with him for record, keeping separate books of deeds, mortgages, and other instruments. He shall also keep in separate books, an alphabetical index, wherein he shall record, under the proper letter of the alphabet, the name of each grantor and grantee in any deed, mortgage, or other instrument left with him for record, or of a discharge of any mortgage made by an entry in the margin of the record thereof, which entry upon such alphabetical index shall show the book and page of the record where the mortgage so discharged is recorded.

(G. S. 1866, c. 8, § 157, as amended 1876, c. 72, § 1; G. S. 1878, c. 8, § 180.)

In determining the appropriate book in which to record an instrument, whether as deed or mortgage, regard is to be had to its terms alone, and not its legal effect, when taken in connection with some other instrument. *Benton v. Nicoll*, 24 Minn. 221, 228.

What is a recording "at large and in full, word for word," see *Carli v. Taylor*, 15 Minn. 171, 172, (Gil. 131, 132;) and see *Whittacre v. Fuller*, 5 Minn. 508, (Gil. 401.)

See *Ahern v. Freeman*, cited in note to § 763.

§ 767. Consecutive numbering of instruments.

Every register of deeds shall indorse plainly upon the top of the back, when folded, of each instrument or paper received by him for record or filing, as

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MINNESOTA STATUTES 1894

Tit. 6]

REGISTERS OF DEEDS.

§§ 767-771

soon as received, a number consecutive to the number affixed to the instrument next previously received, and shall enter such number as a part of the entry relating to such instrument or paper in all the indexes kept in his office and on the margin of the record of such instrument, and such number shall be *prima facie* evidence of priority of registration; *provided*, that when the register of deeds shall receive by mail, or other like inclosure, more than one instrument at the same time he shall affix such number in the consecutive order in which such instruments actually come to his hand in opening such inclosures, save that when more than one instrument is received from the same source, at the same time, he shall follow such directions, if any, as the sender may give in such numbering.

(1887, c. 199, § 1; G. S. 1888, v. 2, c. 8, § 180a.)

§ 768. To keep consecutive index.

Every register of deeds shall keep an index of all records or files kept in his office, showing the number of the instrument or paper consecutively, the kind of instrument or paper, the time of its reception, and where the same is recorded or filed; thus:

Number of Instrument.	Kind of Instrument.	Time of Reception.	WHERE RECORDED OR FILED.		
			Book.	Page.	File No.

—And shall make, or cause to be made, therein the entries mentioned, as soon as each instrument or paper is received by him, excepting only the place of record, which shall be filled in as soon as the instrument or paper is recorded.

(1887, c. 199, § 2; G. S. 1878, v. 2, c. 8, § 180b.)

§ 769. Fees for numbering instruments.

For such numbering and entry, as aforesaid, the register of deeds shall be entitled to a fee of five cents for each instrument or paper numbered and entered, in addition to the fee for recording or filing, heretofore prescribed by law.

(1887, c. 199, § 3; G. S. 1878, v. 2, c. 8, § 180c.)

§ 770. When to take effect.

This act shall take effect and be in force from and after the first day of April, A. D. 1887, on which time in each county in the state of Minnesota the first instrument received by the register for record or filing shall be numbered one.

(1887, c. 199, § 4; G. S. 1878, v. 2, c. 8, § 180d.)

§ 771. May appoint deputies.

He may appoint one or more deputy registers in writing, who shall, before entering upon the duties of their offices, take and subscribe an oath faithfully to perform the duties of their offices, which oath shall be endorsed on the appointment and recorded in the office of the register of deeds. Registers of deeds shall be responsible for the acts of their deputies, and may revoke their appointment at pleasure.

(G. S. 1866, c. 8, § 158; G. S. 1878, c. 8, § 181; as amended 1889, c. 88, § 1.)

§ 772. To record description of cattle brands.

The register of deeds, on the application of any person residing in his county, shall record a description of the marks or brands, with which such person may be desirous of marking his horses, cattle, sheep or hogs; but the same description shall not be recorded for more than one resident of the same county.

(G. S. 1866, c. 8, § 159; G. S. 1878, c. 8, § 182.)

§ 773. To make abstracts of title to real estate.

The register of deeds shall make out, under his certificate and seal, and deliver to any person requesting the same, a full and perfect abstract of the title to any real estate, together with all incumbrances, liens and instruments, in any manner affecting such title as the same appears of record or on file in his office, on being paid his lawful fees therefor. Provided, however, that nothing herein shall apply to or be applicable to the register of deeds of Ramsey County.

(G. S. 1866, c. 8, § 160; G. S. 1878, c. 8, § 183; as amended 1889, c. 99, § 1.)

§ 774. Not to record instrument unless properly executed.

No register of deeds shall record any conveyance, mortgage, or other instrument by which any interest in real estate is or may be in any way affected, unless the same is duly signed and executed and acknowledged, according to law; and any such officer offending herein shall be adjudged guilty of a misdemeanor, and, on conviction, be subject to fine and imprisonment, and liable in damages to the party injured in a civil action.

(G. S. 1866, c. 8, § 161; G. S. 1878, c. 8, § 184.)

See *Beardsley v. Day*, 52 Minn. 451, 55 N. W. Rep. 47.

§ 775. May administer oaths, etc.

Registers of deeds are authorized and empowered to administer oaths, and take acknowledgments of deeds, conveyances, and other instruments in writing. But no deputy register shall have power to perform any of the acts authorized by this section.

(G. S. 1866, c. 8, § 162; G. S. 1878, c. 8, § 185.)

§ 776. Shall have and use seal.

Every register of deeds shall have an official seal, and affix the same to all documents requiring his official signature.

(G. S. 1866, c. 8, § 163; G. S. 1878, c. 8, § 186.)

Necessity of seal to authentication of affidavits sworn to before register of deeds, see *Colman v. Goodnow*, 36 Minn. 9, 29 N. W. Rep. 388.

§ 777. Duty of register—When instruments deemed to be recorded.

That it shall be the duty of every register of deeds to endorse upon every instrument recorded by him, over his official signature, the time when it was received, and the book and page in which it was recorded; and every instrument shall be considered as recorded at the time so noted.

(1870, c. 53, § 1; G. S. 1878, c. 8, § 187.)

See *Hill v. Gill*, 40 Minn. 441, 442, 42 N. W. Rep. 294.

§ 778. When valid—When may be received as evidence.

The certificate so made as aforesaid shall be valid without the official seal of the register being attached thereto; and the certificate or indorsement heretofore made upon such instruments by registers of deeds, in the form of a certificate, are hereby legalized and declared to be a sufficient compliance with the provisions of the statute on this subject, and shall be received in evidence notwithstanding the same may not be attested by the official seal of such register.

(1870, c. 53, § 2; G. S. 1878, c. 8, § 188.)

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MINNESOTA STATUTES 1894

Tit. 7]

SHERIFFS.

§§ 779-785

§ 779. Sheriff's certificates previous to 1862 to be recorded.

Every register of deeds shall record in a book of deeds all certificates now on file in his office made by sheriffs upon sales of real estate on mortgage foreclosures, judgments and execution prior to May ten, one thousand eight hundred and sixty-two, upon being paid by the party requesting such instrument to be recorded the proper fee therefor.

(1877, c. 77, § 1; G. S. 1878, c. 8, § 189.)

§ 780. Record, when made.

Every register of deeds shall record in a book of deeds all such certificates not on file in his office when the same are delivered and left for record, and the fees for such recording shall be paid by the person delivering the same.

(1877, c. 77, § 2; G. S. 1878, c. 8, § 190.)

§ 781. Record to be prima facie evidence.

The recording of such certificates shall have the effect of a record of the same from the time when they were filed in the office of the register of deeds, and shall be prima facie evidence of the facts therein set forth.

(1877, c. 77, § 3; G. S. 1878, c. 8, § 191.)

TITLE 7.

SHERIFFS.

§ 782. Election—Term of office.

There shall be elected in each county a sheriff, who shall hold his office for two years, and until his successor is elected and qualified.

(G. S. 1866, c. 8, § 164; G. S. 1878, c. 8, § 192.)

Cited, *Beebe v. Fridley*, 16 Minn. 518, (Gil. 467.)

§ 783. Sheriff to take oath and give bond.

Every person elected or appointed to the office of sheriff, shall, before he enters on the duties of said office, give bond to the state of Minnesota in the penal sum of five thousand dollars, with two or more sureties to be approved by the board of commissioners, and the approval indorsed thereon, conditioned that the said sheriff shall well and faithfully, in all things, perform and execute the duties of sheriff according to law, during his continuance in office, without fraud, deceit or oppression, which bond shall be filed and recorded in the office of register of deeds of his county. He shall also take the oath required by law, which shall be subscribed to and certified by the officer administering the same, on the back of his certificate of election, and filed and recorded in the office of register of deeds aforesaid.

(G. S. 1866, c. 8, § 165; G. S. 1878, c. 8, § 193.)

See § 873.

Validity of acts of *de facto* sheriff—What irregularities in qualifying will be disregarded—When delivery of bond will be implied. Commissioners of Ramsey County v. Brisbin, 17 Minn. 451, (Gil. 429.)

See *Beauchaine v. McKinnon* (Minn.) 56 N. W. Rep. 1065.

§ 784. Effect of failure to qualify.

If any person elected to the office of sheriff does not give the bond and take the oath prescribed in the preceding section on or before the tenth day of January next succeeding his election, it shall be deemed a refusal to serve.

(G. S. 1866, c. 8, § 166; G. S. 1878, c. 8, § 194.)

§ 785. Powers and duties of sheriff.

The sheriff shall keep and preserve the peace in his county, for which purpose he is empowered to call to his aid such persons or power of his county as he deems necessary. He shall also pursue and apprehend all felons, exe-

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cute all warrants, writs, and other process from a justice of the peace, district court, or other competent tribunal, directed to him by legal authority; shall attend upon the terms of the district court, keep his office at the county seat, and perform all the duties pertaining to his office.

(G. S. 1866, c. 8, § 167; G. S. 1878, c. 8, § 195.)

It is not his duty to pursue and apprehend felons, except where authority to arrest is given either by warrant, or by the statute without a warrant. *Warner v. Grace*, 14 Minn. 487, 489, (Gil. 364, 366.)

Sheriff, when executing a void writ, is a mere trespasser, and not protected by his official character. *Castle v. Thomas*, 16 Minn. 490, (Gil. 443.)

See *Butler v. White*, cited in note to § 792.

§ 786. Vacancy, how filled.

In case of a vacancy in the office of sheriff, by death, resignation, or otherwise, the board of county commissioners shall forthwith appoint some suitable person to be sheriff of the county until the next general election, and until a successor is elected and qualified.

(G. S. 1866, c. 8, § 168; G. S. 1878, c. 8, § 196.)

See § 839.

Cited, *State v. Benedict*, 15 Minn. 198, 203, (Gil. 153, 153.)

§ 787. Sheriff shall give certificate, when.

Every sheriff to whom any process is delivered in the county where it is to be executed, shall, if required by the person delivering the same, give to such person a certificate, under his hand, without charge, wherein the names of the parties and the day of delivering the process shall be mentioned.

(G. S. 1866, c. 8, § 169; G. S. 1878, c. 8, § 197.)

§ 788. Failure to settle and pay over money—Penalty.

If any sheriff or deputy-sheriff fails to settle with and pay over to the board of county commissioners, according to law, any money collected or received by him for the use of or belonging to the county, or shall fail to settle with and pay over to the person or persons entitled thereto any money he may have collected or received by virtue of any execution, process, judgment, order, or decree, or in any other way by virtue of his office, such board of county commissioners, or such person or persons, may proceed against such sheriff and deputy-sheriff in a summary manner before the district court by an order upon him to show cause why he should not pay over such money; and upon the hearing thereof the court may order such sheriff or deputy-sheriff to pay to such board of county commissioners, or to the person or persons so entitled thereto, the amount found due, with twenty per centum thereon as damages for such failure, together with all costs of the proceedings under this section; and, upon failure to comply with such order, he may be committed to jail as for a contempt.

(G. S. 1866, c. 8, § 170; G. S. 1878, c. 8, § 198; as amended 1885, c. 74.)

This provision is not peremptory. The court has discretion, in a proper case, to dispense with the twenty per cent. penalty. *Coykendall v. Way*, 29 Minn. 164, 12 N. W. Rep. 452.

The order to the sheriff to show cause is appealable as "a final order affecting a substantial right, made * * * upon a summary application, in an action after judgment." *Coykendall v. Way*, 29 Minn. 163, 12 N. W. Rep. 452.

A sheriff who delivers property to the purchaser on execution sale without receiving the price may be proceeded against under this section and § 789. *Kumler v. Brandenburg*, 39 Minn. 59, 38 N. W. Rep. 704.

Money paid to a sheriff to redeem land from a foreclosure sale is money received by him "by virtue of his office." *Williams v. Grundysen* (Minn.) 55 N. W. Rep. 557.

§ 789. Neglect of duty—Penalty.

If any sheriff neglects to make due return of any writ or other process delivered to him to be executed, or is guilty of any misconduct in relation to the execution thereof, he may be proceeded against by the party interested in the manner provided in the preceding section; and in addition to requiring

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the performance of the duty neglected, or the correction of the injury done, the court may impose upon such sheriff a fine for the use of the county, not exceeding two hundred dollars: provided, that nothing herein shall prevent the person injured from maintaining an action for damages against the sheriff or upon his official bond.

(G. S. 1866, c. 8, § 171; G. S. 1878, c. 8, § 199.)

The court whence the execution issued may enforce the "performance of the duty," or the "correction of the injury done," by commitment, as provided in § 788. *Breuer v. Elder*, 33 Minn. 150, 22 N. W. Rep. 622.

The order to show cause may be issued by a judge of the district court whence the execution issued, and be made returnable to that court. *Breuer v. Elder*, 33 Minn. 149, 22 N. W. Rep. 622.

See *Kumler v. Brandenburg*, cited in note to § 788, supra.

§ 790. Taking illegal fees—Penalty.

No sheriff or other officer shall directly or indirectly ask, demand or receive, for any services or acts by him performed in pursuance of any official duty, any more fees than are allowed by law, under penalty of forfeiting for such offence, to the party aggrieved, treble the sum so demanded or received, to be recovered in a civil action.

(G. S. 1866, c. 8, § 172; G. S. 1878, c. 8, § 200.)

Applied, *Thomas v. Commissioners of Scott County*, 15 Minn. 324, 325, (Gil. 254, 256.)

§ 791. Not to buy at execution sales, etc.

No sheriff shall become the purchaser, or procure any person to become the purchaser for him, of any property, real or personal, by him exposed to sale, by virtue of any execution or other process; and all such purchases made by any sheriff, or any other person in his behalf, shall be absolutely void.

(G. S. 1866, c. 8, § 173; G. S. 1878, c. 8, § 201.)

§ 792. Outgoing sheriff may complete execution of process.

Every sheriff going out of office by expiration of his term, and having any attachment, execution or other process in his hands, which he has begun to execute by a levy upon property, shall be authorized to proceed thereon, and execute the same, and to sell and give title to the property so levied on, in the same manner as if still in office: provided, that if such late sheriff dies, becomes insane, removes from the state, or is in any manner unable to act, the sheriff in office shall, upon the delivery to him of such attachment, execution or other process, together with a certificate, return or memorandum of the action of the late sheriff under the same, if any, complete the execution thereof in the same manner, and with the like effect, as if such process had been originally delivered to him, and give title to any property so levied on by such late sheriff; and the return of such succeeding sheriff upon any such process, or his deed given in pursuance of the execution of any such process, shall be prima facie evidence of the disability of the late sheriff to complete the execution of such process or give such deed.

(G. S. 1866, c. 8, § 174; G. S. 1878, c. 8, § 202.)

Where a sheriff levies an attachment in an action, an execution on the judgment in the action, issued after such sheriff goes out of office, should be delivered to, and executed by, the sheriff in office when it issues. *Butler v. White*, 25 Minn. 432, 440.

§ 793. To keep prisoners safely—Penalty for neglect.

The sheriff shall receive and safely keep in prison all persons legally committed thereto, and shall not let out of prison any person so in his custody, unless discharged by due course of law, under penalty of being punished by fine and imprisonment: provided, that if there is no jail for the confinement of prisoners in the county, or the jail is insufficient, the sheriff, with the approbation of the judge of the district court, shall employ such means as may be necessary for the safe keeping of all prisoners committed to his custody.

(G. S. 1866, c. 8, § 175; G. S. 1878, c. 8, § 203.)

Compensation of sheriff of Blue Earth county for boarding prisoners. *Sp. Laws 1891, c. 222, § 1.*

MINNESOTA STATUTES 1894

§§ 794-799

COUNTIES AND COUNTY OFFICERS.

[Ch. 8

§ 794. May convey prisoners through other counties, when.

Any sheriff or other officer, who legally arrests any person in any county, may pass across and through such parts of any other counties as he deems necessary to convey the person arrested to the place where he is to be conveyed, according to the command of the process by virtue of which such arrest is made.

(G. S. 1866, c. 8, § 176; G. S. 1878, c. 8, § 204.)

§ 795. Disabilities of sheriff.

No sheriff, deputy sheriff, or coroner, shall appear or practice as an attorney, solicitor, or counsellor, in any court, nor draw or fill up any process, pleading, or proceeding for any party in any action, nor with intent to be employed in the collection of any demand, or the service of any process, advise or counsel any person to commence any action or proceeding, nor shall any sheriff or deputy sheriff be eligible to any other civil office, except town or city marshal; and either of said officers, for a violation of any of the provisions of this section, shall forfeit a sum not exceeding fifty dollars, to be recovered by the county in a civil action.

(G. S. 1866, c. 8, § 177; G. S. 1878, c. 8, § 205.)

§ 796. Deputy sheriffs.

Every sheriff shall appoint, under his hand and seal, a sufficient number of persons as deputy sheriffs, for whose acts he shall be responsible, and whom he may remove at pleasure. Each deputy shall, before entering on his official duties, take the oath required by law, which oath and appointment shall be filed and recorded in the registry of deeds of the proper county.

(G. S. 1866, c. 8, § 178; G. S. 1878, c. 8, § 206.)

The sheriff has the exclusive power of appointing a deputy to act as jailer, though such appointment is not effectual and complete until approved by the judge of the district court for the county. Such jailer can be removed by the sheriff only. *State v. McIntyre*, 25 Minn. 383, 385.

Where a judgment directs a sale to be made by the sheriff, it may be made by his deputy. *Hotchkiss v. Cutting*, 14 Minn. 537, (Gil. 408.)

A sheriff is not liable for an unofficial act of his deputy, though subsequently he expressly approve of it, and both believe the act official, and it is done by the deputy as official. *Dorr v. Mickley*, 16 Minn. 20, (Gil. 8.)

A sheriff may lawfully assign to a deputy all the fees pertaining to the services to be rendered by such deputy. *Pioneer Printing Co. v. Sanborn*, 3 Minn. 413, (Gil. 304.)

§ 797. Sheriff to settle with commissioners.

The sheriff shall settle with and pay over to the board of county commissioners, at their regular sessions, and as often as they require, all money collected or received by him for the use of or belonging to the county.

(G. S. 1866, c. 8, § 179; G. S. 1878, c. 8, § 207.)

§ 798. Deputy sheriffs attending court.

That the district court or any judge of their respective districts in the state of Minnesota shall, prior to the convening of any general term of court, issue an order to the sheriff of the county in which such court is to be held, stating the number of deputies required during such term and directing him to furnish the same. It shall be the duty of said sheriffs to file said order with the clerk of the district court of his county.

(1893, c. 153, § 1.)

§ 799. Same—Compensation.

That the deputy sheriffs so ordered shall receive as compensation three dollars per day for each deputy so ordered during said term of court.

(Id. § 2.)

By § 3 all acts or parts of acts inconsistent with this act are repealed.

The clerk of the district court cannot charge fees for administering oaths to the deputy-sheriffs in attendance, in verification of their accounts for per diem. *Wilcox v. Sibley*, 34 Minn. 215, 25 N. W. Rep. 351. See note to § 687, supra.

§ 800. Compensation of jailers.

The judge of the district court for each county shall also determine, from time to time, the compensation that shall be allowed for the services of a jailer or turnkey in the county jail; which compensation shall be paid monthly, out of the county treasury, upon the warrant of the county auditor; such jailer or turnkey to be appointed by the sheriff of such county, subject to the approval of the judge. In determining such compensation, the judge shall ratably apportion the amount equitably due therefor from any county other than that in which the jail is situated, which may have committed any prisoners to said jail for safe-keeping; and, on presentation of a certified copy of such order of apportionment to the county auditor of any such county, he shall draw his warrant on the county treasurer, in favor of such jailer, for such compensation.

(1873, c. 43, § 2; G. S. 1878, c. 8, § 209; as amended 1887, c. 36.)

This section does not authorize the judge to determine that such jailer shall receive no compensation at all; and an order so determining is void. *State v. McIntyre*, 25 Minn. 383, 386.

TITLE 8.

COUNTY ATTORNEYS.

§ 801. Qualification, term, oath, and bond.

There shall be elected in each county organized for judicial purposes a county attorney, who shall be a person duly admitted to practice law in all courts of this state, who shall hold his office for the term of two years, and until his successor is elected and qualified. Such county attorney shall, before he enters upon the duties of his office, take and subscribe the oath required by law, and shall file with the clerk of the district court of said county a duly-certified copy of the order admitting him to practice law in this state, and shall also execute a bond in the penal sum of one thousand dollars, to the board of county commissioners, with one or more sufficient sureties, to be approved by said commissioners, conditioned that he will faithfully and impartially discharge the duties of county attorney, and pay over without delay, to the county treasurer, all moneys which come into his hands by virtue of his office, which bond, together with his oath of office, shall be filed and recorded in the office of the register of deeds of the proper county, and, when so recorded, shall be forwarded by such register of deeds to the secretary of state.

(G. S. 1866, c. 8, § 180, as amended 1876, c. 71, § 1; G. S. 1878, c. 8, § 210; 1887, c. 68.)

Acts relating to district attorney for the twelfth district. Laws 1881, c. 147, (repealed 1883, c. 136), and c. 139.

To be eligible to the office of county attorney a person need not be an attorney and counsellor at law, nor admitted to practice as such in any of the courts of the state. *State v. Clough*, 23 Minn. 17.

A county attorney may hold over in the event of the election of a successor who is ineligible and may question the legality of the election. *Taylor v. Sullivan*, 45 Minn. 309, 47 N. W. Rep. 802.

§ 802. Justice of the peace ineligible.

Any person who may hold the office of justice of the peace shall be ineligible to hold the office of county attorney, and no person shall hold both said offices at the same time.

(1874, c. 87, § 1; G. S. 1878, c. 8, § 211.)

§ 803. Duties of county attorney.

The county attorney shall appear in all cases where the county is a party, and prosecute or defend for the county, as the case may be; give opinions and advice to the county commissioners or any other officers of said county.

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upon request of such commissioners or officers, upon all matters in which the county is or may be interested, or in relation to the official duties of any of said officers; attend on all terms of the district court for such county, and all other courts having criminal jurisdiction, and attend all preliminary examinations of criminals, when the magistrate before whom such examination is held, shall request his attendance, and furnish him with a copy of the complaint; attend before the grand jury of such county upon the special request of said jury, and examine witnesses in their presence; he shall give them advice in any legal matter before them, and issue subpoenas and process to bring in witnesses before them, or any magistrate before whom he is conducting an examination, and shall attend all coroner's inquests at the request of the coroner, and shall draw all bills of indictment and all presentments found by the grand jury of his county, and shall prosecute all such presentments and indictments to their final determination in the district court. County attorneys, whenever requested by the attorney general, shall appear for the state in their respective counties, in any cause instituted by him, or before the land offices, in any case of application to pre-empt or locate any of the public lands claimed by this state, and assist him in the trial and preparation of any such case.

(G. S. 1866, c. 8, § 181; G. S. 1878, c. 8, § 212.)

It is the duty of the county attorney to appear in all suits in which the county is a party, whether pending within or without the county, without further compensation than his salary. Commissioners Hennepin Co. v. Robinson, 16 Minn. 381, (Gil. 340.) See, also, Day v. Putnam, 16 Minn. 408, 417, (Gil. 365, 374.)

As to the duties of the former "district attorneys" and "prosecuting attorneys," see Nourse v. Supervisors of Hennepin County, 3 Minn. 62, (Gil. 28.) See, also, Territory v. Smith, 3 Minn. 240, (Gil. 164.)

Notice of an appeal to the supreme court, from an order of the district court refusing to set aside a tax judgment, must be served upon the county attorney. Commissioners of Nobles County v. Sutton, 23 Minn. 299.

The approval of a bail-bond, with direction to the sheriff to discharge a prisoner, by a county attorney, if done corruptly, constitutes an indictable misbehavior in office. State v. Wedge, 24 Minn. 150.

§ 804. To keep register of criminal actions.

It shall be the duty of the county attorney of every county in this state to procure, at the expense of the county, a suitable book, to be known and designated "A register of criminal actions," and which book shall be preserved and kept by him as hereinafter provided, and at the expiration of his term of office be delivered by him to his successor in office.

(1885, c. 191, § 1; G. S. 1878, v. 2, c. 8, § 212a.)

§ 805. What entries to be made therein.

Immediately after the conclusion of any preliminary examination or prosecution, conducted by such county attorney, and immediately after the receipt by him of any report of a justice of the peace, as provided in section three of this act, and within ten days after the adjournment of any term of a court of record in his county having criminal jurisdiction, it shall be the duty of such county attorney to enter in such register the title of all criminal causes, conducted, prosecuted, or so reported to him; the date when such examination or prosecution was begun; the date of the finding of an indictment, or the filing of a criminal appeal in such court; the nature of the criminal accusation against the defendant; the result of such examination, prosecution, or trial; if convicted, the nature and extent of the punishment inflicted, and whether the crime charged was committed under the influence of intoxicating liquors. He shall, also, upon the receipt of the report from the justice or clerk hereinafter provided for, enter in such register, under each case, the amount of costs taxed therein, the amount of fines, if any, imposed, and the amount paid thereon.

(1885, c. 191, § 2; G. S. 1878, v. 2, c. 8, § 212b.)

^oAn act for the collection, preservation, and report of criminal statistics. Approved February 10, 1885.

§ 806. Justice of peace to report to county attorney.

It shall be the duty of every justice of the peace, within ten days after the conclusion of every criminal prosecution begun and prosecuted before him, to report to the county attorney of his county, or to the county attorney of the county to which his county is attached for judicial purposes, the title of such criminal cause, the nature of the accusation, the result thereof, and, if the defendant is convicted, the nature and extent of the punishment inflicted; whether the crime charged was committed under the influence of intoxicating liquors, the amount of costs paid or incurred by the state in such case, and the amount of fines and costs, or fines or costs, paid by the defendant.

(1885, c. 191, § 3; G. S. 1878, v. 2, c. 8, § 212c.)

§ 807. Clerk of criminal courts to report to county attorney.

It shall be the duty of the clerk of every court of record having criminal jurisdiction, either before the adjournment or within ten days after the adjournment of any term of such court, to tax the amount of costs paid or incurred by the county or state in the trial of each criminal case tried in said court during said term, including witness fees, and to enter the amount thereof in the record of such case, and immediately thereafter to report to the county attorney of the county the amount of costs so taxed in each of such cases, the amount of fines imposed, and the amount paid thereon.

(1885, c. 191, § 4; G. S. 1878, v. 2, c. 8, § 212d.)

§ 808. Process in criminal actions to be filed, when.

It shall be the duty of every sheriff, or other officer or person who serves any subpoena or other process issued in a criminal action by any court of record having criminal jurisdiction, on or before the last day of every term of such court, to file such subpoena or other process, with his fees for the service thereof indorsed thereon, with the clerk of such court.

(1885, c. 191, § 5; G. S. 1878, v. 2, c. 8, § 212e.)

§ 809. County attorney to report criminal cases to attorney general—Receipt prerequisite for December salary.

It shall be the duty of every county attorney, on or before the tenth day of January of each year, to prepare and transmit to the attorney general, in such form as the attorney general prescribes, a report of the number, character, and result of all criminal cases prosecuted by or reported as aforesaid to him during the preceding year, which report shall also contain such other or further information as the attorney general may require, and said register, if properly kept, may furnish, together with the costs of such prosecution to the county or state. Upon the reception of such report it shall be the duty of the attorney general to send to the county attorney a receipt for the same, which receipt shall be filed with the county auditor of the county; and thereupon, and not otherwise, it shall be the duty of the county auditor to issue to such county attorney a warrant for the salary due him for the preceding month of December, and no warrant shall be issued for said month's salary until such receipt is filed as aforesaid: *provided*, that the report for the year A. D. one thousand eight hundred and eighty-five shall include the period between November fifteenth, one thousand eight hundred and eighty-four, and January first, one thousand eight hundred and eighty-six.

(1885, c. 191, § 6; G. S. 1878, v. 2, c. 8, § 212f.)

§ 810. Not to receive fees.

No county attorney shall receive any fee or reward from or on behalf of any prosecutor or other individual, for services in any prosecution or business to which it is his duty to attend.

(G. S. 1866, c. 8, § 182; G. S. 1878, c. 8, § 213.)

MINNESOTA STATUTES 1894

§§ 811-815

COUNTIES AND COUNTY OFFICERS.

[Ch. 8

§ 811. Vacancy, how filled.

Whenever there is no county attorney for any organized county in this state, the board of county commissioners of such county may, in their discretion, from time to time employ any suitable person being an attorney of a court of record, to perform the legal services which such county may need; and whenever there is no county attorney for the county, or when he is absent at the session of the district court for the county, and no attorney has been employed by the board of county commissioners to attend at such session, the court shall appoint if necessary, by an order to be entered in the minutes of the court, some suitable person to perform for such term of court the duties required by law to be performed by the county attorney; and the person employed or appointed shall receive a reasonable compensation for his services, to be allowed by the board of county commissioners, and paid out of the treasury of such county, which amount shall be deducted from the salary of the county attorney.

(G. S. 1866, c. 8, § 183, as amended 1875, c. 29, § 1; G. S. 1878, c. 8, § 213a.)

See *Rockwell v. County of Fillmore*, 47 Minn. 219, 49 N. W. Rep. 690.

§ 812. Law partner not to defend prosecutions.

No law partner of any county attorney, and no attorney having his office with such county attorney, shall be permitted to appear as attorney for the defendant in any criminal action in any court in this state, which action it is the duty of the county attorney to prosecute.

(1879, c. 83, § 1; G. S. 1878, v. 2, c. 8, § 213b.)

§ 813. Assistant attorney appointed by court.

That the several judges of the district courts in this state may, by order to be duly entered on the minutes, at any term of the court, appoint any attorney of the court to act as, or in place of, or to assist the county attorney in any business or proceeding before the grand jury or in court, whether there be a county attorney present at such term or not; and the person so appointed shall take the usual oath of office, and shall thereupon be fully authorized to be present before the grand jury at any time when the county attorney might by law be present before that body: provided, that no compensation shall be paid by the county to such person so appointed by the court to assist the county attorney, when that officer is present at the term when such appointment is made, except the same be paid with the consent of the county attorney, and be deducted from the regular salary of that officer.

(1876, c. 66, § 1; G. S. 1878, c. 8, § 214.)

See *Rockwell v. County of Fillmore*, 47 Minn. 219, 49 N. W. Rep. 690.

§ 814. County attorney to file account of moneys received.

Every county attorney, on or before the first day of January in each year, shall make out and file in the office of the county auditor, an account in writing, under oath, of all moneys received by him during the preceding year, by virtue of his office, for fines, recognizances, forfeitures, penalties or costs; and he shall specify in such account the name of the person from whom he received such moneys, the particular amount paid by such person, and the cause for which each payment was made, and shall at the same time, or previously, pay over such money to the county treasurer, and take a receipt and duplicate for the same, and file the duplicate with the county auditor.

(G. S. 1866, c. 8, § 184; G. S. 1878, c. 8, § 215.)

§ 815. Refusal to account—Penalty.

When the county attorney refuses or neglects to account for and pay over the moneys received by him, the county auditor shall cause an action to be instituted upon the bond of such county attorney, for the recovery of the money so received and unpaid by him, and for damages in failing to account.

(G. S. 1866, c. 8, § 186; G. S. 1878, c. 8, § 217.)

813
99 - 209
69-M - 508
72-NW 800

813

01 4

813 90-M 348

Tit. 9]

JUDGES OF PROBATE.

§§ 816-821

§ 816. Vacancy, how filled.

Whenever a vacancy occurs in the office of county attorney, the board of county commissioners, at their first session thereafter, shall appoint some suitable person to be county attorney, who shall take the oath and file the bond required of the county attorney, and shall hold his office until the next general election, and until his successor is elected and qualified.

(G. S. 1866, c. 8, § 187; G. S. 1878, c. 8, § 218.)

TITLE 9.

JUDGES OF PROBATE.

817-822

01 - 58
01 - 362

§ 817. Insanity of probate judge.

Whenever the probate judge of any county becomes or is considered insane, the judge of the district court for such county shall, upon the verified petition of five legal voters thereof, proceed to examine into such alleged insanity, substantially in the manner and for the purpose prescribed in title three, chapter thirty-five, General Statutes one thousand eight hundred and seventy-eight. If, on such examination, such probate judge is found to be insane, or incapacitated to act from mental derangement, the governor shall, on presentation of the certificate of such findings, or authenticated copy thereof, declare the office of such probate judge vacant, and appoint a suitable person to fill such vacancy, as provided by law.

(1885, c. 164; G. S. 1878, v. 2, c. 8, § 223a.)

§ 818. Shall give bond and take oath.

Every judge of probate, shall, before he enters upon the duties of his office execute a bond to the county commissioners, in the penal sum of one thousand dollars, with one or more sufficient sureties, to be approved by the said commissioners, conditioned for the faithful discharge of the duties required of him by law, and for the faithful application of all moneys and effects that may come into his hands in the execution of the duties of his office; and shall take the oath required by law, which bond and oath of office shall be filed and recorded in the office of the register of deeds.

(G. S. 1866, c. 8, § 188; G. S. 1878, c. 8, § 219.)

See § 873.

§ 819. To have office at county seat and keep records.

The judge of probate shall keep his office at the county seat, and keep a record of all orders, decrees, and other official acts made or done by him, which record shall be open to the inspection of all persons without charge.

(G. S. 1866, c. 8, § 189; G. S. 1878, c. 8, § 220.)

Prior to March 6, 1852, judges of probate could not take acknowledgments of deeds. The act of that date authorized them to do so. *Baze v. Arper*, 6 Minn. 220, (Gil. 142.)

§ 820. Shall deliver books, etc., to successor.

Whenever the term of office of any judge of probate expires, he shall deliver over to his successor in office, all books and papers relating to said office of judge of probate, in his possession, and, upon failure to do so, within five days after demand by his successor, he shall be liable to indictment and punishment by fine not exceeding one thousand, nor less than one hundred dollars.

(G. S. 1866, c. 8, § 190; G. S. 1878, c. 8, § 221.)

§ 821. May appoint clerk.

Every judge of probate may appoint a clerk, who shall perform all the duties assigned him by law or said judge; such appointment shall be in writing, signed by the judge and filed in the office of the clerk of the district court of the county in which the same is made.

(G. S. 1866, c. 8, § 191; G. S. 1878, c. 8, § 222.)

For compensation of clerk of probate court in Hennepin county, see Sp. Laws 1885, c. 242; Sp. Laws 1887, c. 25.

For act authorizing judge of probate to employ clerk in Morrison county, see Sp. Laws 1885, c. 173.

821 '05 . 81
'05 . 155

§ 822. Clerk to take oath and give bond.

Before entering upon the duties of his office, such clerk shall take the oath required by law, and execute a bond to the county commissioners, with one or more sureties to be approved by them, in the penal sum of five hundred dollars, conditioned for the faithful discharge of his duties; said oath and bond shall be filed and recorded in the office of the register of deeds, and an action may be maintained on said bond by any party aggrieved by a violation of the condition thereof.

(G. S. 1866, c. 8, § 192; G. S. 1878, c. 8, § 223.)

TITLE 10.

COURT COMMISSIONERS.

§ 823. Election—Term of office.

There shall be chosen in each organized county one person, who shall be called a court commissioner, and hold his office for the term of four years, and until his successor is elected and qualified.

(G. S. 1866, c. 8, § 193; G. S. 1878, c. 8, § 224; as amended 1885, c. 26, § 1.)

§ 824. Qualifications and powers.

Court commissioners shall be men learned in the law, and shall have and may exercise the judicial powers of a judge of the district court at chambers.

(G. S. 1866, c. 8, § 194; G. S. 1878, c. 8, § 225.)

The court commissioner has, in addition to those specially enumerated, the powers of a *judge at chambers*, but not those of the *district court in vacation*. *Gere v. Weed*, 3 Minn. 352, (Gil. 249;) followed in *Pulver v. Grooves*, 3 Minn. 359, (Gil. 252.)

A court commissioner may allow a writ of *habeas corpus*, returnable before himself, to issue to his own county, or to an adjoining county, if there be no officer therein authorized to allow such writ. *State v. Hill*, 10 Minn. 63, (Gil. 45.)

What is a sufficient authentication of a bail-bond by a court commissioner, see *State v. Perry*, 28 Minn. 455, 10 N. W. Rep. 778.

§ 825. To give bond and take oath.

Before entering upon his duties, each court commissioner shall execute to the board of county commissioners a bond in the sum of two thousand dollars, with surety to be approved by the board, conditioned for the faithful performance of the duties required of him by law; and shall take and subscribe an oath of office, which, with his bond, shall be filed and recorded in the office of the register of deeds.

(G. S. 1866, c. 8, § 195; G. S. 1878, c. 8, § 226.)

See post, § 873.

§ 826. To have office at county seat and keep record.

The court commissioner shall keep his office at the county seat, and keep a record of all proceedings had before him, in books procured at the expense of the county, which books shall be delivered to his successor in office.

(G. S. 1866, c. 8, § 196; G. S. 1878, c. 8, § 227.)

§ 827. May be judge of probate.

Nothing in this title shall prevent the same person from holding at the same time the office of judge of probate and that of court commissioner.

(G. S. 1866, c. 8, § 197; G. S. 1878, c. 8, § 228.)

§ 828. Vacancy, how filled.

Whenever a vacancy occurs in the office of court commissioner, the judge of the district court for the district in which such county is situated, shall appoint some competent person to fill such vacancy, who shall give such bond and take such oath as is by law required of court commissioners, and who shall hold his office until the next general election, and until his successor is elected and qualified.

(G. S. 1866, c. 8, § 198; G. S. 1878, c. 8, § 229.)

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97 - 311

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66-NW 970

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64-M - 229

TITLE 11.

COUNTY SURVEYORS.

§ 829. Election—Term, oath, and bond.

There shall be elected in each county a surveyor, who shall hold his office for two years, and until his successor is elected and qualified. He shall reside in the county for which he is elected, and shall, previous to his entering upon the duties of his office, take and subscribe the oath required by law, and give bond to the board of county commissioners in the sum of five hundred dollars, conditioned for the faithful discharge of his duties; said bond and oath of office shall be filed in the office of the county auditor; said bond to be approved by the county commissioners, and recorded with the said oath of office in the office of the register of deeds; and he shall have power to administer oaths to chainmen and other persons under his charge.

(G. S. 1866, c. 8, § 199, as amended 1875, c. 30, § 1; G. S. 1878, c. 8, § 230; 1881, c. 46, § 1; 1887, c. 32.)

See post, § 873.

829-837
95 . 280
829-832
90 . 29

§ 830. Compensation.

That the county surveyors of the several counties of this state shall be entitled to receive four dollars per day, as compensation for their services, for each day employed in the discharge of their duties as such surveyors, including the time necessarily spent in traveling to and from the field of their labor.

(1867, c. 96, § 1; G. S. 1878, c. 8, § 231.)

830
99 . 29
74-NW 280
830
71-M - 518

§ 831. May appoint deputies.

The said surveyor may appoint such number of deputies as he thinks proper, who shall severally take an oath, for the faithful performance of whose duties he shall be responsible, and, by himself or one of his deputies, execute all surveys which shall be ordered by any court, board of county commissioners, town supervisors, or other public officer, within his county, or upon application of any individual or corporation; and each of said deputies shall have the power to administer oaths to chainmen and other persons under their charge.

(G. S. 1866, c. 8, § 200, as amended 1875, c. 30, § 2; G. S. 1878, c. 8, § 232; 1881, c. 42, § 1.)

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831 } '05 . 282

§ 832. Shall keep record of surveys.

The said surveyor shall keep a correct and fair record of all surveys made by him or his deputies, in a book to be provided by the county commissioners for that purpose, which he shall transmit to his successor in office; he shall also number such surveys progressively, and shall preserve a copy of the field notes and calculations of each survey, indorsing thereon its proper number, a copy of which, and also a fair and accurate plat, together with a certificate of survey, shall be furnished by said surveyor to any person requiring the same.

(G. S. 1866, c. 8, § 201; G. S. 1878, c. 8, § 233.)

832
62-M - 388
64-NW 922

§ 833. Rules for surveys.

In all surveys the courses shall be expressed according to the true meridian, and the variation of the magnetic meridian from the true meridian shall be expressed on the plat, with the year, month, and day of the same.

(G. S. 1866, c. 8, § 202; G. S. 1878, c. 8, § 234.)

833
65-M - 386
833-836
76-M - 5
79-NW 5

§ 834. Rules for subdividing sections.

Whenever a surveyor is required to make a subdivision of a section as established by the United States survey, he shall proceed as follows: Whether the section is fractional or not, excepting on the northern and western tier of sections of those townships whose northern boundary is a standard parallel or correction line hereinafter provided for, commencing at either quarter-section corner of the section, he shall run direct lines to the opposite quarter-

834-836
95 . 249

834-836
67-NW 997

section corner of the section, and, at the intersection of said lines, he shall establish a common centre therefor, at which a post marked " $\frac{1}{4}$ S," on opposite sides, with a suitable instrument, shall be firmly fixed and driven into the ground; and, if practicable, two bearing trees shall be marked in the same manner, and their course and distance from the said post noted in the plat and field notes; and in all sections on the northern or western boundary lines of townships, the surveyor, in making a subdivision of such sections, shall commence at the quarter-section corner on the south or east boundary of the section, (as the case may be,) and run a line to a point intersecting a direct (right angle) line running from the quarter-section corners east and west, or north and south, at a point equi-distant from the said quarter-section corners; and at said point of intersection he shall establish a post for a common centre, as hereinbefore provided for; and from said common centre he shall continue the line northerly or westerly, in a direct line, to the quarter-section corner on the north or west section line, (as the case may be.) In those townships whose northern boundary is a standard parallel or correction line, but upon which no quarter-section posts are established for the sections adjoining it on the south by the United States surveyors, the county surveyor, whenever required to subdivide such sections, shall establish a quarter post on such standard parallel or correction line, equidistant from the section posts established at the intersection of the parallel by the section lines south; such quarter post to be marked only on the side facing the south, and (when practicable) two bearing trees south of such line marked, and their course and distance from such quarter post duly noted; the subdivision of such sections may be then proceeded with as hereinbefore directed.

(G. S. 1866, c. 8, § 203, as amended 1875, c. 31, § 1; G. S. 1878, c. 8, § 235.)

This section is inoperative when it comes in conflict with the rules established by acts of congress for subdividing sections. *Chan v. Brandt*, 45 Minn. 93, 47 N. W. Rep. 461.

§ 835. Dividing quarter sections—Copies of United States plats and field notes to be filed.

Any less subdivision than a quarter section shall be made in the following manner. If the quarter section is not fractional, as follows: Establish a course on the boundaries or lines marking the quarter section to be divided, equidistant from the adjacent corners of the same, and from such corners run direct lines to the opposite corners, and establish a common centre of the quarter section at the intersection thereof. Any subdivision of the fractional north-east and north-west quarter sections on the north boundary, and of the fractional north-west and south-west quarter sections on the west boundary of townships, shall be made by ascertaining the distance by measurement from the quarter-section posts to the north and west boundaries respectively, then, as the distance returned in the United States field notes or plats from the quarter-section corner to the north and west boundaries, respectively, is to the distance of the same found by measurement, so is the distance returned in such notes or plats as the width of the south half of the north-east quarter and the east half of the north-west quarter and the south-west quarter, respectively, to the required measurement of the same.

That all surveys made after the passage of this act by county surveyors, or other surveyors, shall be made in strict conformity to the original United States government surveys; and to enable surveyors to conform to the requirements of this act, the county commissioners of each county are hereby required to procure and keep on file in the office of the register of deeds certified copies of the original plats and field notes of the United States government surveys in their respective counties.

(G. S. 1866, c. 8, § 204, as amended 1870, c. 43, § 1; G. S. 1878, c. 8, § 236.)

§ 836. Surveyor to supply lost posts.

If the quarter-section or section post, as originally fixed by the United States survey, is destroyed, the surveyor shall fix a new post on such land as he may be called upon to survey, with similar marks to those placed on like posts by the United States surveyors, graved therein; said posts to be fixed in accordance with the government field notes.

(G. S. 1866, c. 8, § 205; G. S. 1878, c. 8, § 237.)

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75-NW 699

836
72-M - 443
78-M - 520
81-NW 526

Tit. 12]

CORONERS.

§§ 837-843

§ 837. Vacancy, how filled.

Whenever a vacancy occurs in the office of county surveyor, the board of county commissioners, at their first session thereafter, shall appoint some suitable person to fill such vacancy until the next general election, and until a successor is elected and qualified.

(G. S. 1866, c. 8, § 206; G. S. 1878, c. 8, § 238.)

TITLE 12.

CORONERS.

§ 838. Election—Term, bond, and oath.

A coroner shall be elected in each organized county for the term of two years and until his successor is elected and qualified, who shall, before he enters upon the duties of his office, give bond to the board of county commissioners, in such penal sum, not less than five hundred dollars nor more than ten thousand dollars, with such sufficient sureties, not less than two, as the said board directs and approves, the condition of which bond shall be, in substance, the same as that required to be given by the sheriff, except in the description of the office, and take the oath required by law; which bond and oath shall be filed and recorded in the office of register of deeds.

(G. S. 1866, c. 8, § 207; G. S. 1878, c. 8, § 239.)

See post, § 873.

§ 839. To act as sheriff in case of vacancy.

When there is a vacancy in the office of sheriff, the coroner shall exercise the powers and duties of said office until a sheriff is elected and qualified; and when the sheriff for any cause is committed to the jail of his county, said coroner shall be keeper thereof during the time the sheriff remains a prisoner therein.

(G. S. 1866, c. 8, § 208; G. S. 1878, c. 8, § 240.)

§ 840. To be subject to liabilities as sheriff.

Whenever the coroner executes the office of sheriff, he shall perform all the duties, and be subject to all liabilities and penalties imposed by law upon a sheriff duly elected and qualified.

(G. S. 1866, c. 8, § 209; G. S. 1878, c. 8, § 241.)

§ 841. To execute process when sheriff is a party.

Every coroner shall serve and execute process of every kind and perform all other duties of the sheriff, when the sheriff is a party in the action, or whenever affidavit is made and filed, as provided in the succeeding section; and in all such cases he shall exercise the same powers, and proceed in the same manner as prescribed for the sheriff in the performance of similar duties.

(G. S. 1866, c. 8, § 210; G. S. 1878, c. 8, § 242.)

§ 842. Process to be directed to coroner, when.

Whenever any party, his agent or attorney, makes and files with the clerk of the district court an affidavit, stating that he believes the sheriff of such county will not, by reason either of partiality or prejudice, consanguinity or interest, faithfully perform his duties in any action commenced, or about to be commenced, the clerk shall direct all process in such action to the coroner.

(G. S. 1866, c. 8, § 211; G. S. 1878, c. 8, § 243.)

§ 843. To take inquest, when.

Coroners shall take inquest upon view of the dead body of such persons only as are supposed to have come to their death by violence, and not when the death is believed to have been, and was evidently, occasioned by casualty.)

(G. S. 1866, c. 8, § 212; G. S. 1878, c. 8, § 244.)

(237)

**§ 849. Testimony to be reduced to writing and filed—
Certificate when inquest unnecessary—Fees.**

The testimony of all witnesses examined before the coroner's jury must be reduced to writing by the coroner, or under his direction, and be subscribed by the witnesses respectively. And the coroner shall forthwith file such testimony, together with a record of all proceedings had before him, in the office of the clerk of the district court of the county wherein such inquest is held. And in all cases brought to the attention of the coroner wherein he does not deem it necessary to hold an inquest, he shall file with such clerk a certificate, setting forth the facts in relation thereto. For the taking of such testimony the coroner shall be allowed ten cents a folio, and twenty-five cents for such certificate. And the clerk of said court shall forthwith duly file, index, and enter such case or proceeding in a book to be kept for that purpose, in the same manner as proceedings in civil actions are now entered, and shall receive from the treasury of his said county the same fees as are now allowed by law for like services.

(G. S. 1866, c. 8, § 218; G. S. 1878, c. 8, § 250; as amended 1887, c. 78.)

§ 850. Duty of jury—Form of inquisition.

The jury, upon inspection of the dead body, and after hearing the testimony, and making the needful inquiries, shall draw up and deliver to the coroner, the inquisition under their hands, in which they shall find and certify when, how, and by what means the deceased person came to his death, and his name if it was known, together with all the material circumstances attending his death; and if it appears that his death was caused by criminal violence, the jurors shall further state who were guilty, either as principals or accessories, if known, or were, in any manner, the cause of his death, which inquisition may be, in substance, as follows:

State of Minnesota, } ss.
County of _____, }

An inquisition taken at _____, in the county of _____, on the _____ day of _____, A. D. _____, before _____, coroner of said county of _____, upon view of the body of _____, (or a person) lying there dead, by the oaths of the jurors whose names are hereunto subscribed, who, being sworn to inquire on behalf of the state of Minnesota, when, how, and by what means the said _____ (or person) came to his death, upon their oaths do say, [then insert when, how, and by what person, means, weapon or instrument he was killed.]

In testimony whereof the said coroner and jurors of this inquest have hereunto set their hands the day and year aforesaid.

(G. S. 1866, c. 8, § 219; G. S. 1878, c. 8, § 251.)

§ 851. Witnesses may be bound over—Return to court.

If the jury find that any murder, manslaughter, or assault has been committed on the deceased, the coroner shall bind over, by recognizance, such witnesses as he shall think proper, to appear and testify at the next court to be held in the same county at which indictment for such offence can be found; he shall also return to the same court, the inquisition, written evidence and all recognizances and examinations by him taken, and may commit to the jail of the county any witnesses who refuse to recognize in such manner as he shall direct.

(G. S. 1866, c. 8, § 220; G. S. 1878, c. 8, § 252.)

§ 852. Person charged may be arrested.

If any person charged by the inquest with having committed such offence is not in custody, the coroner shall have the same power as a justice of the peace, to issue process for his apprehension; and such warrant shall be made returnable before any justice of the peace, or other magistrate or court having jurisdiction in the case, who shall proceed therein in the same manner that is required of justices of the peace (or other court) in like cases.

(G. S. 1866, c. 8, § 221; G. S. 1878, c. 8, § 253.)

§ 853. Coroner to provide burial in certain cases.

When any coroner takes an inquest upon view of the dead body of any person unknown, or, being called for that purpose, shall not think it necessary, on view of such body, that any inquest should be taken, he shall cause the body to be decently buried; and all expenses of the inquisition and burial shall be paid by the county in which such dead body is found.

(G. S. 1866, c. 8, § 222; G. S. 1878, c. 8, § 254.)

§ 854. Deputy coroners—Their powers, oath, and bond.

Every coroner is authorized and required to appoint one or more deputy coroners, who shall, in the absence or inability to act of the coroner, possess the same powers and be subject to the same liabilities as coroners. Each deputy shall be appointed in writing, and, before entering upon the duties of his office, shall take and subscribe the oath required by law, and give bond to the board of county commissioners, with sureties to be approved by said board, in such sum, not less than five hundred dollars, nor more than five thousand dollars, as said board directs, conditioned for the faithful performance of his official duties; which bond, oath and appointment shall be filed and recorded in the office of register of deeds.

(G. S. 1866, c. 8, § 223; G. S. 1878, c. 8, § 255.)

See § 873.

§ 855. Vacancy in office, how filled.

Each deputy shall act in his own name as deputy coroner, and hold his office during the pleasure of the coroner; and whenever a vacancy occurs in the office of coroner, the board of county commissioners, at their first session thereafter, shall appoint some suitable person to fill such vacancy until the next general election, and until a successor is elected and qualified.

(G. S. 1866, c. 8, § 224, as amended 1871, c. 92, § 1; G. S. 1878, c. 8, § 256.)

TITLE 13.

CLERK OF DISTRICT COURT.*

§ 856. Shall give bond and take oath—Money paid into court.

Every clerk of the district court, before entering on the duties of his office, shall execute a bond to the board of county commissioners, with two or more sureties, approved by said board, in the penal sum of one thousand dollars, conditioned for the faithful discharge of his official duties, and take and subscribe the oath required by law; which oath and bond shall be filed and recorded in the office of the register of deeds: *provided*, that the judge of the district court in any county may order all moneys, paid into court to abide the result of any legal proceedings, to be deposited, until the further order of said court, in some duly-incorporated bank or banks, to be designated by the court as such depository; or said judge, on application of any person or corporation paying such money into court, may require said clerk to give an additional bond, with like effect as the bond provided for in this section, in such amount as said judge shall deem sufficient. That the clerk of said district court shall be entitled to receive a commission of one per cent. on every dollar for receiving and paying over money which may be deposited with him, to-wit: one-half of such commission for receiving, and the other half for paying, the same. Said per cent. to be paid by the party depositing the money.

(G. S. 1866, c. 8, § 225; G. S. 1878, c. 8, § 257; as amended 1879, c. 91, § 1; 1887, c. 72.)

See § 873.

Cited, *State v. Benedict*, 15 Minn. 198, 203, (Gil. 153, 156.)

As to the liability of a clerk for misplacing papers. *Rosenthal v. Davenport*, 38 Minn. 543, 38 N. W. Rep. 618.

*See, as to clerk of court of Blue Earth county, Sp. Laws 1881, Ex. S. c. 222.

856
95 . 281

856-869
95 . 305

§ 857. Where to keep office—Duties.

Every clerk shall keep his office at the county seat, and perform all duties which are or may be assigned him by law and by the rules of the court of which he is clerk.

(G. S. 1866, c. 8, § 226; G. S. 1878, c. 8, § 25S.)

§ 858. Not to practice in his court.

No person holding the office of, or acting as clerk of any district court in this state, shall be allowed to practice as attorney, or solicitor, in the court in which he holds the office of clerk of court, or is acting as clerk of court. Provided, that any person now holding such office of a clerk of a district court shall be excepted from the operation and effect of this act while serving out the remainder of his present term of office, and no longer.

(1889, c. 50, § 1.)

§ 859. Deputy clerks.

He may, at his discretion, with the approval of the judge of his court, appoint one or more deputy clerks, for whose acts he shall be responsible. Said deputy or deputies shall be appointed under the hand and official seal of the clerk, with the approval of the judge endorsed on such appointment; and the deputy or deputies appointed under and in pursuance of the provisions of this article, may administer oaths, take acknowledgments, and perform all the duties pertaining to the office of clerk of district courts.

(G. S. 1866, c. 8, § 227, as amended 1877, c. 12, § 1; G. S. 1878, c. 8, § 259.)

The district court takes judicial notice of the signature and official character of all persons appointed deputies; and, in proceedings in the same court, it is immaterial whether a deputy, in signing a jurat, designates himself as a deputy or a deputy clerk. State v. Barrett, 40 Minn. 65, 41 N. W. Rep. 459.

§ 860. Deputy shall take oath.

Before any deputy clerk of the district court shall enter upon the duties of his office, he shall take and subscribe the oath required by law, which oath, together with the appointment of such deputy clerk, shall be filed and recorded in the office of the register of deeds; such deputy may be removed at the pleasure of the clerk.

(G. S. 1866, c. 8, § 228; G. S. 1878, c. 8, § 260.)

§ 861. Books to be kept by clerk.

Every clerk shall procure, at the expense of his county, and keep the following books:

First. A register of actions, in which he shall enter the title of each action, whether originally commenced in his said court or brought there by appeal or transcript of judgment from justice court or from any court of record of the state or the United States, a minute of each paper filed in the court [cause] and all proceedings therein.

Second. A judgment book, in which shall be entered the judgments in each action.

Third. A docket, in which he shall enter alphabetically the name of each judgment debtor, the amount of the judgment, and the precise time of his entry.

Fourth. Such other books as the court in its discretion may direct.

To search for judgments.

Whenever information as to the contents of any of said books respecting the existence or docketing or satisfaction of judgment is required for the purpose of making or certifying abstracts of title, any person requiring such information shall apply to the clerk therefor. And said clerk shall at once make search, and certify the result of such search, under his hand and the seal of said court, giving the name of the party against whom any judgment appears of record, the amount of such judgment, and the time of its entry, and of its satisfaction, [if satisfied,] and, if requested, any other entries relative to such judgments as they appear of record: provided, that this act shall not pre-

MINNESOTA STATUTES 1894

§§ 861-864

COUNTIES AND COUNTY OFFICERS.

[Ch. 8

vent attorneys or other persons from having reasonable access to and from examining such records when no such certificate is necessary or required.

(G. S. 1866, c. 8, § 229; G. S. 1878, c. 8, § 261; as amended 1883, c. 28, § 1; 1887, c. 48, § 1.)

Where a decree has been lost, the making and signing it by the judge may be proved by the clerk, although the testimony of the judge is attainable. *Smith v. Valentine*. 19 Minn. 452, (Gil. 398.)

See *Rasmusson v. County of Clay*, 41 Minn. 283, 43 N. W. Rep. 3.

§ 862. Fees.

For such services the clerk shall receive the same fees as are now allowed by law for certificates and examination of records.

(1887, c. 48, § 2; G. S. 1878, v. 2, c. 8, § 261a.)

§ 863. To keep index to court records.

It shall be the duty of the clerk of the district court of every county in this state to procure at the expense of the county two well-bound books, to be designated "Plaintiff's Index to Court Records," and "Defendant's Index to Court Records," to be ruled and printed substantially in the following manner:

Plaintiffs.	Defendants.	Kind of action.	Term Commenced.	Record-Book.	Pages.

Term Disposed of.	Date of Judgment.		Judgment Docket.		Execution Docket.		Fee-Book.		Satisfied or Not Satisfied.	Number of Case.
	Month.	Day.	Book.	Page.	Book.	Page.	Book.	Page.		

—In which all the cases shall be entered in alphabetical order by the name of each plaintiff and defendant. Said book shall set forth the names of the parties, kind of action, term commenced, the record-books and pages on which cases are recorded, the term disposed of, date of judgment, books and pages of the judgment dockets, execution dockets, fee-books, satisfied or not satisfied, and number of case. The defendants' index shall be ruled and printed in the same manner as the plaintiffs', except the parties shall be reversed. (1885, c. 181; G. S. 1878, v. 2, c. 8, § 261b.)

The county is not liable for the services of a clerk in indexing the records in books provided for in this section. *Rasmusson v. County of Clay*, 41 Minn. 283, 43 N. W. Rep. 3.

§ 864. To enter all unregistered cases—Lien of judgments.

That the clerks of the several district courts of this state shall enter upon the registers provided for that purpose all cases, civil and criminal, which, through the mistake, inadvertence, or neglect of their predecessors in office, shall not have been registered. The true date of the filings in such cases shall be entered on said registers, and said entries, when so made, shall have the same force and effect as if made by the clerk of the district court at the proper

MINNESOTA STATUTES 1894

Tit. 14]

MISCELLANEOUS PROVISIONS.

§§ 864-870

time: *provided*, that the fees for such services shall be paid by the county only upon the order of the court: *and provided, further*, that in docketing any such judgment the date thereof shall be the time when the same is actually docketed, and the lien thereof shall attach only from such date.

(1885, c. 262; G. S. 1878, v. 2, c. 8, § 261c.)

§ 865. Vacancy, how filled.

Whenever any vacancy occurs in the office of clerk of the district court, the judge of the district court for the district in which such county is situate, shall appoint some suitable person to fill such vacancy, who shall give such bond and take such oath as is by law required of clerks of the district court, and who shall hold his office until the next general election, and until his successor is elected and qualified.

(G. S. 1866, c. 8, § 230; G. S. 1873, c. 8, § 262.)

§ 866. Election of clerks in 1896.

That in all counties in this state in which the terms of office of clerks of the district court will expire on the first Monday in January, A. D. eighteen hundred and ninety-six, the successors thereto shall be elected at the general election to be held in November, A. D. eighteen hundred and ninety-six.

(1891, c. 39, § 1.)

§ 867. Vacancies in 1896, how filled.

That when vacancies shall occur in said offices under the provisions of section one of this act, said offices shall be filled as now provided by law.

(Id. § 2.)

§ 868. Salaries of clerks of district courts.

In all counties where the fees of the clerk of the district court do not exceed five hundred dollars per annum, the said clerk shall receive from the county treasurer of his county, unless prohibited by the county commissioners of said county, a sum which, together with the fees of his office, shall be equal to five hundred dollars per annum: *provided*, the population of such county exceeds forty-five hundred, as shown by the last state census.

(1866, c. 22, § 1, as amended 1868, c. 95, § 1; G. S. 1878, c. 8, § 263.)

See post, § 873.

§ 869. Clerk to file statement on oath of fees.

The clerks of the district court mentioned in section one of this act, shall, on the first Mondays of January and June in each year, file with the county auditor of their respective counties a statement in writing, under oath, showing the whole amount of fees of their office, by whom paid or to whom charged, and for what purpose, for the term ending on the first Monday of January and June of each year.

(1866, c. 22, § 2; G. S. 1878, c. 8, § 264.)

Fees of the clerk of district court in—

Goodhue county, see Sp. Laws 1879, c. 307, § 4.

Hennepin county, see Sp. Laws 1881, c. 408, § 2, as amended by Sp. Laws 1881, Ex. S.

c. 47.

Kandiyohi county, see Sp. Laws 1887, c. 365.

Mower county, see Sp. Laws 1879, c. 308, § 5; Sp. Laws 1881, c. 108, § 5.

Otter Tail county, see Sp. Laws 1887, c. 358, §§ 2-5.

Rice county, see Sp. Laws 1879, c. 306, § 2.

[TITLE 14.]

MISCELLANEOUS PROVISIONS.

§ 870. County officers to report all fees, etc.

It shall be the duty of all county officials on or before the fifteenth of January in each year to make and file with the county auditor in their respective counties a statement in writing, under oath, showing the amount of all fees, gratuities and emoluments of whatever nature by them received

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66-NW 264
97 - 162
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64-M - 207

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66-NW 264
97 - 162
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64-M - 207

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64-M - 207

MINNESOTA STATUTES 1894

§§ 870-876

COUNTIES AND COUNTY OFFICERS.

[Ch. 8

as such county officials or in connection with the work of their respective offices for the calendar year next preceding the making and filing of such statement.

(1893, c. 144, § 1.¹⁰)

§ 871. Duty of auditor, commissioners, and attorney.

The county auditor shall present all statements made pursuant to the provisions of this (act) to the board of county commissioners, at the regular or special meeting thereof held next after the fifteenth of January, together with a list of county officials whose reports have not been received by said county auditor, and thereupon it shall be the duty of said board to cause the county attorney to be notified as to such delinquents and of said county attorney to prosecute the same.

(Id. § 2.)

§ 872. Penalty for violation.

Any county official who shall violate any provision of this act shall be guilty of a misdemeanor, and on conviction thereof shall be punished by a fine of not less than one hundred dollars or more than one thousand dollars or by imprisonment in the county jail for not less than thirty days nor more than one year, or by both said fine and imprisonment, at the discretion of the court.

(Id. § 3.)

§ 873. Fees for recording official bonds, etc., to be paid by county.

That in all cases where the bonds, oaths of office, certificates of qualification or evidence of the election and qualification for office of any county or town office now required by law to be filed or recorded with the register of deeds or clerk of the district court, the fees for filing or recording the same shall be paid from the county treasury in the same manner as other claims.

(1889, c. 181, § 1.)

§ 874. Blanks for official bonds of county officers to be prepared.

It is hereby made the duty of the secretary of state, the attorney general, and the public examiner to prepare and cause to be printed blank forms of official bonds for the use of the following officers, viz.: County auditor, county treasurer, register of deeds, sheriff, clerk of the district court, court commissioner, coroner, and judge of probate, county attorneys, and county surveyors.

(1881, c. 110, § 1,¹¹ as amended 1883, c. 9, § 1; G. S. 1878, v. 2, c. 8, § 268a.)

§ 875. To be furnished to county auditors.

The secretary of state shall each year, or as often as may be necessary, forward to the county auditor in each county in this state a sufficient number of such printed forms for the use of such county officers.

(1881, c. 110, § 2; G. S. 1878, v. 2, c. 8, § 268b.)

§ 876. Duty of officers to use blanks.

It shall be the duty of each person elected to any office named herein to use the blanks so prepared before entering upon the discharge of his duties: *provided*, that bonds shall not be deemed invalid because executed otherwise than upon such blanks.

(1881, c. 110, § 3; G. S. 1878, v. 2, c. 8, § 268c.)

¹⁰By § 4 of this act, all inconsistent acts are repealed.

¹¹An act to provide for the preparation and printing of blanks for official bonds of county officers, and for recording such bonds and filing the same in the office of the secretary of state. Approved March 4, 1881. § 4 repealed Laws 1883, c. 47, § 2. By § 10 of this act, all acts and parts of acts inconsistent with its provisions are repealed.

§ 877. What official bonds to be forwarded to secretary of state.

All official bonds of county officers which are now or which may hereafter be required to be filed and recorded in the office of the register of deeds of the county where such officers, respectively, reside, shall be forwarded by such register of deeds as soon as recorded to the secretary of state.

(1881, c. 110, § 5; G. S. 1878, v. 2, c. 8, § 268d.)

§ 878. Duty of secretary of state.

The secretary of state shall obtain, in writing, upon all bonds forwarded to him, the approval of the same as to statutory form and execution, by the attorney general; and when so approved he shall file the same in his office and retain the same for the use of all parties interested therein.

(1881, c. 110, § 6; G. S. 1878, v. 2, c. 8, § 268e.)

§ 879. Procedure in case of non-approval of bond.

In case of non-approval of any bond on account of defect in form or execution of the same, the attorney general shall indorse thereon the reasons for such non-approval, and the secretary of state shall advise the county commissioners of the proper county of such non-approval, with the reason therefor, and the county commissioners shall at once require the officer executing the same to execute, without delay, a bond perfected according to the statutes, which shall be approved, recorded, and filed as provided by law; but nothing in this act shall be construed as invalidating the original bond for any portion of such officer's term in office previous to the filing of the perfected bond with the secretary of state, or as interfering with the duties of the county commissioners in regard to the approval of bonds, or in regard to the calling for new and additional bonds.

(1881, c. 110, § 7; G. S. 1878, v. 2, c. 8, § 268f.)

§ 880. Bonds filed not to be withdrawn.

No bond so filed in the office of the secretary of state shall be removed therefrom, except upon the written order of the judge of some court of record of the state before whom an action is pending to enforce the conditions of such bonds.

(1881, c. 110, § 8, same as 1874, c. 89, § 2; G. S. 1878, v. 2, c. 8, § 268g.)

§ 881. Certified copy of such bond—When evidence.

A copy of any such official bond, so filed in the office of the secretary of state, and duly certified by him, under his hand and seal of office, to be a true copy of the original bond on file in his office, may be used as evidence in all the courts of this state, and shall have the same force and effect as if the original bond were produced in court.

(1881, c. 110, § 9, same as 1874, c. 89, § 3; G. S. 1878, v. 2, c. 8, § 268h.)

§ 882. New bond required, when.

The county commissioners of any county in the state of Minnesota may require any county officer to give a new official bond whenever in the opinion of a majority of said commissioners the original bond of any county officer has become insufficient.

(1885, c. 198, § 1; G. S. 1878, v. 2, c. 8, § 270a.)

§ 883. Surety may ask for new bond.

Any person who is a surety upon the official bond of any county officer may file with the board of county commissioners of the proper county, at any regular or special meeting of said board, or with the county auditor of such county, a request in writing that the officer for whom he is surety, naming him, be required to furnish a new official bond, and giving the reasons for

MINNESOTA STATUTES 1894

§§ 883-888

COUNTIES AND COUNTY OFFICERS.

[Ch. 8

such request. Such request shall be laid before the board of commissioners on the first day of their next meeting following the date of filing said request, and shall take precedence of all other business before said commissioners. (1885, c. 198, § 2; G. S. 1878, v. 2, c. 8, § 270b.)

§ 884. Officer to be notified—Service of notice.

When any board of county commissioners shall deem the bond of any county officer insufficient, or when the request of any surety on the official bond of any county officer, as provided in the preceding section, is laid before them, they shall cause a notice to be issued by them, signed by the chairman of said board, and countersigned by the auditor of said county, and directed to the county officer named in such request, or whose bond is deemed insufficient, requiring him to furnish a new official bond, to be approved by them, before the first day of the next regular, special, or adjourned meeting of said board, but not earlier than twenty days from date of said notice, under the penalty of forfeiture of his office, which notice shall be served personally upon such officer at least twenty days before such general, special, or adjourned meeting of such board, and the same shall be served and returned in the same manner as summons in district courts.

(1885, c. 198, § 3; G. S. 1878, v. 2, c. 8, § 270c.)

§ 885. Office vacant upon failure to provide new bond.

Whenever any county officer has been served with the notice as provided in the preceding section and fails or neglects to furnish such new bond, as so required, the office held by such officer shall be deemed vacant, and the vacancy thus created shall be filled as provided by law: *provided*, that if it shall be made to appear to said board of county commissioners that such officer has been prevented by sickness, or other physical disability, from furnishing such new bond, as so required, said commissioners may grant such officer further time, but not later than the next meeting of said board of commissioners, to furnish the same. And if said new bond is not furnished as required, the office of such officer shall be deemed vacant, as before provided.

(1885, c. 198, § 4; G. S. 1878, v. 2, c. 8, § 270d.)

§ 886. Original bond, how affected by new bond.

That when a new bond is taken and approved as provided, the original bond, and the rights and liabilities of the parties thereto incurred or existing at or prior to the time of the approval of the new bond, shall not be anywise affected or impaired; but such original bond and the sureties thereon shall not be liable for the acts of such officer after said new bond is approved and accepted.

(1885, c. 198, § 5; G. S. 1878, v. 2, c. 8, § 270e.)

§ 887. What records subject to public inspection.

The several judges of probate, county auditors, and clerks of the district courts of this state shall during the hours when their respective offices are, or may be required by law to be, open, exhibit any papers, files, or records of their offices, or in their official custody, to the inspection of any person demanding the same, free of charge, except in those cases where fees are provided by law; and in the latter case, upon tender of such fees.

(1887, c. 83, § 1; G. S. 1878, v. 2, c. 8, § 271.)

§ 888. Certified copies of records.

The several county auditors, judges of probate, and clerks of district court shall, during the hours when by law their respective offices are required to be open, furnish, to any person demanding the same, a certified copy of any record, file, or papers on file or deposited in their offices, or in their official custody, upon tender of such proportionate fees as are now allowed by law to registers of deeds for like services.

(1887, c. 83, § 1; G. S. 1878, v. 2, c. 8, § 272.)

MINNESOTA STATUTES 1894

Tit. 14]

MISCELLANEOUS PROVISIONS.

§§ 889-890

§ 889. Separate books to be kept for each county attached.

It is hereby made the duty of the officers of each county in this state, to which any unorganized, or partially unorganized, county may be attached for judicial, record, taxation, or other purposes, to keep separate and distinct books of accounts and records for each county so attached, which books of accounts and records shall be chargeable to, and paid for by, such attached county; and whenever such attached county shall become detached, said books of accounts and records shall be turned over to the proper officers of said county, so detached, as the property of such county, or to the officers of the county to which said detached county may thereafter become attached.

(1883, c. 123, § 1; G. S. 1878, v. 2, c. 8, § 273.)

§ 890. When a woman may be appointed deputy.

Any county officer who is authorized by law to appoint one or more deputies is hereby authorized to appoint a female as such deputy, provided such female is a citizen under the laws of the state of Minnesota.

(1891, c. 40, § 1.)

(247)

889

97 - 99