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THE

# GENERAL STATUTES

OF THE

## STATE OF MINNESOTA

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

COMPILED AND EDITED BY  
HENRY B. WENZELL, Assisted by EUGENE F. LANE

WITH ANNOTATIONS BY  
FRANCIS B. TIFFANY and Others

AND A GENERAL INDEX BY THE EDITORIAL STAFF OF THE NATIONAL  
REPORTER SYSTEM

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COMPLETE IN TWO VOLUMES

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### VOL. 1

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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ST. PAUL, MINN.  
WEST PUBLISHING CO.

1894

**MINNESOTA STATUTES 1894**

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## PREFACE.

This compilation of the General Statutes is intended to comprise all of the General Statutes of 1866, as amended by subsequent legislation, and all other laws of a general nature, in force December 31, 1894. The arrangement of General Statutes 1878—the admirable compilation by Hon. George B. Young—has been followed. As far as possible laws enacted since 1878 and dealing with subjects embraced in that edition have been inserted in the appropriate chapter. The chapter on curative and legalizing acts inserted in that edition has been retained as chapter 123. The Probate Code and other acts relating to that subject have been inserted as a new chapter numbered 45a. The Penal Code and acts of similar character have been inserted as chapter 92a. In addition to these, seven other chapters have been added, having the following titles respectively, viz.:

- Chapter 124. Wheat and Other Grain.
- 125. Drainage and Drains.
- 126. Cultivation of Timber and Hedges.
- 127. Extermination of Pests.
- 128. Occupations in which State License or Registration is Required.
- 129. Standing Appropriations—System of Accounting in State Institutions.
- 130. Miscellaneous Laws.

The titles of the chapters of General Statutes 1866 have been retained. In two or three instances where the title was not sufficiently descriptive of new matter inserted, a second title or additional words have been added to the old title. In every case such addition has been placed within brackets [ ]. Wherever any chapter has been subdivided into separate titles not found in General Statutes 1866, such sub-title and its subject-title have also been inclosed within brackets. There has been no change in the order of sections retained from General Statutes 1866. Scarcely any change has been made in the sequence of sections retained

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from General Statutes 1878, except in title 1 of chapter 34, where a slightly different order was adopted in order to group together acts relating to railroad corporations. As a renumbering of the sections in nearly all of the chapters became necessary, it has been deemed expedient to adopt a consecutive numbering of sections from beginning to end of the work. This plan will simplify the citation of sections, and, it is believed, will commend itself upon trial. At the end of each section is a reference by year, chapter, and section to the law from which it is taken and to any amendatory acts. If the section appeared originally in the Revision of 1866, its position in General Statutes 1866 by chapter and section is indicated; and in the same way the position of any section found in General Statutes 1878 is indicated.

The text of General Statutes 1878 and of the printed session laws published by authority of law has been followed. In cases of apparent error the editor has caused the manuscript originals in the office of the Secretary of State to be examined. Words and letters in brackets [ ] appear in the engrossed bills which passed the two houses of the legislature, but are not found in the enrolled bills approved by the Governor.

The phraseology of the repealing sections of the Penal Code has made it at times difficult to determine just what acts have been repealed by that Code. In some cases where an earlier act has specified more than one offence, and a portion of the section relating to an offence appeared to be repealed without repealing the remainder of the section, the whole section has been printed and the part deemed to be repealed has been placed within brackets [ ] with a note or cross-reference to the corresponding sections of the Penal Code. The editor has added cross-references where different enactments appeared to be in conflict; and, in certain places, particularly in chapter 34, he has added cross-references to acts found elsewhere in this edition relating to the same subject. The Municipal Court acts have been omitted because they are considered to be of a local rather than of a general character, but a note has been placed at the end of chapter 64 containing an index to the various special acts upon this subject.

The annotations have been prepared by F. B. Tiffany, Esq., who has preserved the annotations contained in General Statutes

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PREFACE.

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1878, volume 2, published in 1889, so far as applicable, and has added citations to the subsequent decisions of the Minnesota Supreme Court as well as the subsequent decisions of the Federal Courts in which the Minnesota statutes have been referred to. The index has been prepared by members of the editorial staff of the National Reporter System.

HENRY B. WENZELL.

December, 1894.

PREFACE TO GENERAL STATUTES 1878.

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This edition of the General Statutes has been prepared pursuant to Laws 1878, c. 76. It is designed to comprise the General Statutes of 1866, as amended by subsequent legislation, and such other laws of a general nature not embraced in the Revision of 1866, nor in terms amendatory thereof, as were in force at the close of the legislative session of 1878. The arrangement of the General Statutes of 1866 has been retained, and laws dealing with subjects within the scope of that Revision are inserted in the chapters treating of those subjects respectively. Two new chapters (123 and 124) have been added, the former consisting of curative and legalizing acts, and the latter comprising a few laws for which no appropriate place could be found under any of the chapters of the Revision of 1866.

The editor has in general followed the text of the printed edition of the General Statutes of 1866, and of the printed volumes of the session laws published yearly by authority of law under the supervision of the Secretary of State, and by him certified to be correct. A few errors in the former, and very many in the latter, are corrected in this edition, as the result of a personal examination by the editor of the manuscript originals on file in the office of the Secretary of State. Words and letters in brackets [ ] occur in the engrossed bills which passed the two houses of the legislature, but are not found in the enrolled bills approved by the Governor.

The plan pursued in this edition has rendered necessary the renumbering of the sections in most of the chapters, the original section numbers (where they differ from the numbers of this edition) being added in parentheses (). Each new section added is distinguished by an asterisk [\*] prefixed to the section mark, thus, \*§. Each such new section is followed by a reference to the law from which it is taken, and each section of the Revision of 1866 which has been in terms amended by subsequent legislation is followed by a like reference to the amendatory act. The reader is thus enabled to see

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at a glance whether any section is an original section of the General Statutes of 1866, an amended section of that Revision, or a section of a new and independent act; and in the latter cases he is informed of the year, chapter and section of the law as printed.

\* \* \* \* \*

GEO. B. YOUNG.

PREFACE TO GENERAL STATUTES 1866.

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The act establishing a territorial government for Minnesota, approved March 3, 1849, provided that "the laws in force in the territory of Wisconsin at the date of the admission of the State of Wisconsin, shall continue to be valid and operative, so far as the same be not incompatible with the provisions of this act, subject, nevertheless, to be altered, modified, or repealed by the governor and legislative assembly of said territory of Minnesota."

On the twenty-first day of January, A. D. 1851, the legislative assembly of the territory of Minnesota passed a joint resolution, authorizing the joint judiciary committee of the two houses to call to their assistance such persons as they might think proper, not exceeding three in number, for the purpose of compiling and revising the laws of the territory. Pursuant to this resolution, M. L. Wilkinson, L. A. Babcock and William Holcombe were appointed to prepare and arrange a code of laws and make report to the legislative assembly then in session. The revisors made their report, in accordance with the terms of the resolution, and the same was adopted at the session of 1851, under the style of "The Revised Statutes of the Territory of Minnesota."

By an act passed March 13, 1858, it was provided that "Moses Sherburne, Aaron Goodrich, and William Hollinshead, be appointed commissioners to compile, arrange and put into chapters, under appropriate heads, the public acts now in force, including the revised statutes and the public acts and laws passed since the revision of the statutes, and which may be passed by this legislature; and said commissioners shall not enter upon their duties until instructed in reference to the code of practice to be adopted by this state; and that said commissioners report the result of their labors as this legislature may direct." Two distinct and diverse reports were made relating to the code of practice, neither of which were adopted by the legislature, and afterwards, two of the commissioners, Messrs. Sherburne and Hollinshead, caused to be pre-



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pared a compilation of the laws then in force, which was published in the year 1859, as a private enterprise, under the title of "The Public Statutes of the State of Minnesota."

By an act of the legislature, approved February 17, 1863, S. J. R. McMillan, E. C. Palmer, Thomas Wilson, and Andrew G. Chatfield were appointed commissioners "to revise the statutes of this State," and were directed to have a report of their doings printed and laid before the legislature at the session of 1864. The commissioners, with the exception of Andrew G. Chatfield, who declined to serve, entered at once upon their labors, but owing to the magnitude of the undertaking, and the fact that a large portion of their time was necessarily occupied in the discharge of judicial duties, the work was not accomplished at the time designated. The legislature continued the commission, requiring a printed report to be made at the session of 1865, but the commissioners found themselves unable to complete the work satisfactorily, within the time limited, and no report was presented.

Gordon E. Cole was added to the board by act approved February 21, 1865, and, as Judges Wilson and McMillan had been placed on the bench of the Supreme Court, the labor of completing the revision devolved upon the other two commissioners.

At the session of 1866, a printed report was made, embracing the statutes as revised, and containing a chapter providing for the express repeal of all existing acts of a general nature not included in the report. The report was referred to a select joint committee, was considered and examined chapter by chapter, and with such amendments as the committee deemed advisable to suggest, was presented to the legislature, which took up, considered and enacted each chapter separately.

Provision was made for letting the printing of the statutes to the lowest bidder, with a condition that the volumes should be ready for delivery on the first day of July, A. D. 1866, and by an act entitled "An act relating to editing and superintending the printing and publication of the general statutes," approved March 1, 1866, the undersigned was appointed commissioner "to edit and superintend the printing and publication of the general statutes of the State, together with the Constitution thereof, the Constitution of the United States, and such other additions as he may deem expedient, and to prepare head notes to the chapters, and marginal

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notes to the sections, with references to such of the decisions of the Supreme Court of the State, and the laws passed at the present session, as relate to or affect said sections, and an exact and copious Index to the whole."

The text of the Constitution of Minnesota and of the statutes has been carefully compared with the rolls, by the editor personally, assisted by the Secretary of State. Such errors as were discovered have been noted by enclosing the omitted or erroneous words in brackets, thus [ ], but this does not apply to cases where brackets have been used in forms.

Under the authority given the editor to make such additions as he deemed expedient, a list of general acts and sections of acts passed subsequently to the passage of the Revised Statutes, and expressly repealed before the passage of the General Statutes, with references to the repealing acts, has been added, together with a Glossary of such technical words and phrases as are, for the most part, found in the Statutes. In the preparation of the Glossary, the editor has consulted the best authorities within his reach, and endeavored to select those definitions and explanations which seemed adapted to popular as well as professional use.

All the care and labor, which the shortness of the time allowed for printing the statutes permitted, have been bestowed upon the Index, and it is hoped that it will be found sufficiently copious, exact and intelligible to meet the wants of the legal profession and the people generally.

In the necessary haste in which the statutes have been printed, devolving an amount of labor upon the editor, of which no one who has not occupied a similar position can form any adequate conception, it is hardly to be expected that some errors have not occurred, which longer time and a more careful scrutiny would have obviated.

The editor trusts, however, that no serious errors have been committed, and that such as are discovered will find a sufficient excuse in that legislative requirement which gave so short a period for the accomplishment of so extensive and important a work.

E. C. PALMER.

July, 1866.

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CONSTITUTION  
OF  
THE UNITED STATES.

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## Preamble.

We, the people of the United States, in order to form a more perfect union, establish justice, ensure domestic tranquillity, provide for the common defence, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity, do ordain and establish this constitution for the United States of America.

## ARTICLE I.

### Section 1. Of the legislative power.

All legislative powers herein granted shall be vested in a congress of the United States, which shall consist of a senate and house of representatives.

### Sec. 2. Of the house of representatives.

The house of representatives shall be composed of members chosen every second year by the people of the several states; and the electors in each state shall have the qualifications requisite for electors of the most numerous branch of the state legislature.

### Qualifications of the members.

No person shall be a representative who shall not have attained to the age of twenty-five years, and been seven years a citizen of the United States, and who shall not, when elected, be an inhabitant of that state in which he shall be chosen.

### Apportionment of representatives and direct taxes.

Representatives and direct taxes shall be apportioned among the several states which may be included within this Union, according to their respective numbers, which shall be determined by adding to the whole number of free persons, including those bound to service for a term of years, and excluding Indians not taxed, three-fifths of all other persons. The actual enumeration shall be made within three years after the first meeting of the congress of the United States, and within every subsequent term of ten years, in such manner as they shall by law direct. The number of representatives shall not exceed one for every thirty thousand, but each state shall have at least one representative; and until such enumeration shall be made, the state of New Hampshire shall be entitled to choose three; Massachusetts eight; Rhode Island and Providence Plantations one; Connecticut five; New York

six; New Jersey four; Pennsylvania eight; Delaware one; Maryland six; Virginia ten; North Carolina five; South Carolina five; and Georgia three.

When vacancies happen in the representation from any state, the executive authority thereof shall issue writs of election to fill such vacancies.

The house of representatives shall choose their speaker and other officers, and shall have the sole power of impeachment.

### Sec. 3. Of the senate.

The senate of the United States shall be composed of two senators from each state, chosen by the legislature thereof for six years; and each senator shall have one vote.

Immediately after they shall be assembled in consequence of the first election, they shall be divided, as equally as may be, into three classes. The seats of the senators of the first class shall be vacated at the expiration of the second year; of the second class at the expiration of the fourth year; and of the third class at the expiration of the sixth year, so that one-third may be chosen every second year; and if vacancies happen by resignation or otherwise, during the recess of the legislature of any state, the executive thereof may make temporary appointments until the next meeting of the legislature, which shall then fill such vacancies.

No person shall be a senator who shall not have attained to the age of thirty years, and been nine years a citizen of the United States, and who shall not, when elected, be an inhabitant of that state for which he shall be chosen.

The vice-president of the United States shall be president of the senate, but shall have no vote unless they be equally divided.

The senate shall choose their own officers, and also a president pro tempore, in the absence of the vice-president, or when he shall exercise the office of president of the United States.

The senate shall have the sole power to try all impeachments. When sitting for that purpose they shall be on oath or affirmation. When the president of the United States is tried, the chief justice shall preside; and no person shall be convicted without the concurrence of two-thirds of the members present.

Judgment in cases of impeachment shall not extend further than to removal from office, and disqualification to hold and enjoy any office of honor, trust or profit under the United States; but the party convicted shall nevertheless be liable and subject to indictment, trial, judgment and punishment, according to law.

### Sec. 4. Manner of electing members — Of the meeting of congress.

The times, places and manner of holding elections for senators and representatives shall be prescribed in each state by the legislature thereof; but the congress may at any time by law make or alter such regulations, except as to the places of choosing senators.

The congress shall assemble at least once in every year, and such meeting shall be on the first Monday in December, unless they shall by law appoint a different day.

### Sec. 5. Powers of each house.

Each house shall be the judge of the elections, returns and qualifications of its own members, and a majority of each shall constitute a quorum to do business; but a smaller number may adjourn from day to day, and may be authorized to compel the attendance of absent members, in such manner and under such penalties as each house may provide.

Each house may determine the rules of its proceedings, punish its members for disorderly behavior, and, with the concurrence of two-thirds, expel a member.

Each house shall keep a journal of its proceedings, and from time to time publish the same, excepting such parts as may in their judgment require secrecy; and the yeas and nays of the members of either house on any question shall, at the desire of one-fifth of those present, be entered on the journal.

Neither house, during the session of congress, shall, without the consent of the other, adjourn for more than three days, nor to any other place than that in which the two houses shall be sitting.

**Sec. 6. Compensation — Privileges of the members — Exclusion from holding office.**

The senators and representatives shall receive a compensation for their services, to be ascertained by law, and paid out of the treasury of the United States. They shall in all cases, except treason, felony, and breach of the peace, be privileged from arrest during their attendance at the session of their respective houses, and in going to and returning from the same; and for any speech or debate in either house, they shall not be questioned in any other place.

No senator or representative shall, during the time for which he was elected, be appointed to any civil office under the authority of the United States which shall have been created, or the emoluments whereof shall have been increased, during such time; and no person holding any office under the United States, shall be a member of either house during his continuance in office.

**Sec. 7. Revenue bills—Manner of passing bills—Approval, etc.**

X All bills for raising revenue shall originate in the house of representatives; but the senate may propose or concur with amendments as on other bills.

Every bill which shall have passed the house of representatives and the senate, shall, before it becomes a law, be presented to the president of the United States; if he approve, he shall sign it; but if not, he shall return it, with his objections, to that house in which it shall have originated, who shall enter the objections at large on their journal, and proceed to reconsider it. If, after such reconsideration, two-thirds of that house shall agree to pass the bill, it shall be sent, together with the objections, to the other house, by which it shall likewise be reconsidered, and, if approved by two-thirds of that house, it shall become a law. But in all cases, the votes of both houses shall be determined by yeas and nays, and the names of the persons voting for and against the bill shall be entered on the journal of each house respectively. If any bill shall not be returned by the president within ten days, (Sundays excepted,) after it shall have been presented to him, the same shall be a law in like manner as if he had signed it, unless the congress by their adjournment prevent its return, in which case it shall not be a law.

Every order, resolution or vote to which the concurrence of the senate and house of representatives may be necessary (except on a question of adjournment) shall be presented to the president of the United States, and, before the same shall take effect, shall be approved by him, or, being disapproved by him, shall be repassed by two-thirds of the senate and house of representatives, according to the rules and limitations prescribed in the case of a bill.

**Sec. 8. General powers of congress.**

The congress shall have power,

To lay and collect taxes, duties, imposts, and excises, to pay the debts and provide for the common defence and general welfare of the United States; but all duties, imposts and excises shall be uniform throughout the United States:

To borrow money on the credit of the United States:

X To regulate commerce with foreign nations, and among the several states, and with the Indian tribes:

To establish an uniform rule of naturalization, and uniform laws on the subject of bankruptcies throughout the United States:

To coin money, regulate the value thereof and of foreign coin, and fix the standard of weights and measures:

To provide for the punishment of counterfeiting the securities and current coin of the United States:

To establish post-offices and post-roads:

To promote the progress of science and useful arts, by securing, for lim-

ited times, to authors and inventors, the exclusive right to their respective writings and discoveries:

To constitute tribunals inferior to the supreme court: To define and punish piracies and felonies committed on the high seas, and offences against the law of nations:

To declare war, grant letters of marque and reprisal, and make rules concerning captures on land and water:

X To raise and support armies; but no appropriation of money to that use shall be for a longer term than two years:

To provide and maintain a navy:

To make rules for the government and regulation of the land and naval forces:

To provide for calling forth the militia to execute the laws of the Union, suppress insurrections, and repel invasions:

To provide for organizing, arming and disciplining the militia, and for governing such part of them as may be employed in the service of the United States, reserving to the states respectively the appointment of the officers, and the authority of training the militia according to the discipline prescribed by congress:

To exercise exclusive legislation in all cases whatsoever, over such district (not exceeding ten miles square) as may, by cession of particular states and the acceptance of congress, become the seat of the government of the United States; and to exercise like authority over all places purchased by the consent of the legislature of the state in which the same shall be, for the erection of forts, magazines, arsenals, dock-yards, and other needful buildings: and

To make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this constitution in the government of the United States, or in any department or officer thereof.

**Sec. 9. Limitations of powers of congress.**

The migration or importation of such persons as any of the states now existing shall think proper to admit, shall not be prohibited by the congress prior to the year one thousand eight hundred and eight; but a tax or duty may be imposed on such importation, not exceeding ten dollars for each person.

The privilege of the writ of habeas corpus shall not be suspended, unless when, in cases of rebellion or invasion, the public safety may require it.

No bill of attainder or ex post facto law shall be passed.

No capitation or other direct tax shall be laid, unless in proportion to the census or enumeration hereinbefore directed to be taken.

No tax or duty shall be laid on articles exported from any state. No preference shall be given by any regulation of commerce or revenue, to the ports of one state over those of another; nor shall vessels bound to or from one state be obliged to enter, clear, or pay duties in another.

No money shall be drawn from the treasury but in consequence of appropriations made by law; and a regular statement and account of the receipts and expenditures of all public money shall be published from time to time.

No title of nobility shall be granted by the United States; and no person holding any office of profit or trust under them shall, without the consent of the congress, accept of any present, emolument, office or title, of any kind whatever, from any king, prince, or foreign state.

**Sec. 10. Limitations of the powers of the states.**

No state shall enter into any treaty, alliance or confederation; grant letters of marque and reprisal; coin money; emit bills of credit; make anything but gold and silver coin a tender in payment of debts; pass any bill of attainder, ex post facto law, or law impairing the obligation of contracts, or grant any title of nobility.

No state shall, without the consent of congress, lay any imposts or duties on imports or exports, except what may be absolutely necessary for executing its inspection laws; and the net produce of all duties and imposts, laid by any state on imports or exports shall be for the use of the treasury of the

United States; and all such laws shall be subject to the revision and control of the congress. No state shall, without the consent of congress, lay any duty of tonnage, keep troops or ships of war in time of peace, enter into any agreement or compact with another state or with a foreign power, or engage in war, unless actually invaded, or in such imminent danger as will not admit of delay.

## ARTICLE II.

### Section 1. Of the executive power—Election, etc., of president.

The executive power shall be vested in a president of the United States of America. He shall hold his office during the term of four years, and, together with the vice-president, chosen for the same term, be elected as follows:

Each state shall appoint, in such manner as the legislature thereof may direct, a number of electors equal to the whole number of senators and representatives to which the state may be entitled in the congress; but no senator or representative, or person holding an office of trust or profit under the United States, shall be appointed an elector.

[The electors shall meet in their respective states, and vote by ballot for two persons, of whom one at least shall not be an inhabitant of the same state with themselves. And they shall make a list of all the persons voted for, and of the number of votes for each; which list they shall sign and certify, and transmit sealed to the seat of the government of the United States, directed to the president of the senate. The president of the senate shall, in the presence of the senate and house of representatives, open all the certificates, and the votes shall then be counted. The person having the greatest number of votes shall be the president, if such number be a majority of the whole number of electors appointed; and if there be more than one who have such majority, and have an equal number of votes, then the house of representatives shall immediately choose, by ballot, one of them for president; and if no person have a majority, then, from the five highest on the list, the said house shall, in like manner, choose the president. But in choosing the president, the votes shall be taken by states, the representation from each state having one vote; a quorum for this purpose shall consist of a member or members from two-thirds of the states, and a majority of all the states shall be necessary to a choice. In every case, after the choice of the president, the person having the greatest number of votes of the electors shall be the vice-president. But if there should remain two or more who have equal votes, the senate shall choose from them, by ballot, the vice-president.]

The portion in brackets has been superseded by the twelfth amendment.

The congress may determine the time of choosing the electors, and the day on which they shall give their votes, which day shall be the same throughout the United States.

No person, except a natural born citizen, or a citizen of the United States at the time of the adoption of this constitution, shall be eligible to the office of president; neither shall any person be eligible to that office, who shall not have attained to the age of thirty-five years, and been fourteen years a resident within the United States.

In case of the removal of the president from office, or of his death, resignation, or inability to discharge the powers and duties of the said office, the same shall devolve on the vice-president; and the congress may by law provide for the case of removal, death, resignation or inability, both of the president and vice-president, declaring what officer shall then act as president; and such officer shall act accordingly, until the disability be removed, or a president shall be elected.

The president shall, at stated times, receive for his services a compensation which shall neither be increased or diminished during the period for which he shall have been elected; and he shall not receive within that period any other emolument from the United States, or any of them.

Before he enter on the execution of his office, he shall take the following oath or affirmation:

"I do solemnly swear (or affirm) that I will faithfully execute the office of president of the United States, and will, to the best of my ability, preserve, protect and defend the constitution of the United States."

### **Sec. 2. Powers and duties of the president.**

The president shall be commander-in-chief of the army and navy of the United States, and of the militia of the several states, when called into the actual service of the United States; he may require the opinion, in writing, of the principal officer in each of the executive departments, upon any subject relating to the duties of their respective offices; and he shall have power to grant reprieves and pardons for offences against the United States, except in cases of impeachment.

He shall have power, by and with the advice and consent of the senate, to make treaties, provided two-thirds of the senators present concur; and he shall nominate, and by and with the advice and consent of the senate shall appoint, ambassadors, other public ministers, and consuls, judges of the supreme court, and all other officers of the United States whose appointments are not herein otherwise provided for, and which shall be established by law. But the congress may, by law, vest the appointment of such inferior officers as they think proper, in the president alone, in the courts of law, or in the heads of departments.

The president shall have power to fill up all vacancies that may happen during the recess of the senate, by granting commissions which shall expire at the end of their next session.

### **Sec. 3. Further powers and duties of the president.**

He shall, from time to time, give to the congress information of the state of the Union, and recommend to their consideration, such measures as he shall judge necessary and expedient. He may, on extraordinary occasions, convene both houses, or either of them; and, in case of disagreement between them with respect to the time of adjournment. He may adjourn them to such time as he shall think proper; he shall receive ambassadors and other public ministers. He shall take care that the laws be faithfully executed, and shall commission all the officers of the United States.

### **Sec. 4. How officers may be removed.**

The president, vice-president, and all civil officers of the United States, shall be removed from office on impeachment for, and conviction of, treason, bribery, or other high crimes and misdemeanors.

## **ARTICLE III.**

### **Section 1. Of the judicial power.**

The judicial power of the United States shall be vested in one supreme court, and in such inferior courts as the congress may from time to time ordain and establish. The judges both of the supreme and inferior courts shall hold their offices during good behavior; and shall, at stated times, receive for their services a compensation which shall not be diminished during their continuance in office.

### **Sec. 2. Extent of judicial power, how exercised.**

The judicial power shall extend to all cases in law and equity, arising under this constitution, the laws of the United States, and treaties made, or which shall be made, under their authority; to all cases affecting ambassadors, other public ministers, and consuls; to all cases of admiralty, and maritime jurisdiction; to controversies to which the United States shall be a party; to controversies between two or more states, between a state and citizens of another state, between citizens of different states, between citizens of the same state claiming lands under grants of different states, and

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between a state, or the citizens thereof, and foreign states, citizens or subjects.\*

\* See the eleventh amendment.

In all cases affecting ambassadors, other public ministers, and consuls, and those in which a state shall be party, the supreme court shall have original jurisdiction. In all the other cases before mentioned, the supreme court shall have appellate jurisdiction, both as to law and fact, with such exceptions and under such regulations as the congress shall make.

The trial of all crimes, except in cases of impeachment, shall be by jury, and such trial shall be held in the state where the said crimes shall have been committed; but when not committed within any state, the trial shall be at such place or places as the congress may by law have directed.

### Sec. 3. Of treason.

Treason against the United States shall consist only in levying war against them, or in adhering to their enemies, giving them aid and comfort. No person shall be convicted of treason unless on the testimony of two witnesses to the same overt act, or on confession in open court.

The congress shall have power to declare the punishment of treason; but no attainder of treason shall work corruption of blood, or forfeiture except during the life of the person attained.

## ARTICLE IV.

### Section 1. Of state records.

Full faith and credit shall be given in each state to the public acts, records, and judicial proceedings of every other state. And the congress may by general laws prescribe the manner in which such acts, records and proceedings shall be proved, and the effect thereof.

### Sec. 2. Rights of citizens — Fugitives from labor and from justice.

The citizens of each state shall be entitled to all privileges and immunities of citizens in the several states.

A person charged in any state with treason, felony, or other crime, who shall flee from justice, and be found in another state, shall, on demand of the executive authority of the state from which he fled, be delivered up to be removed to the state having jurisdiction of the crime.

No person held to service or labor in one state under the laws thereof, escaping into another, shall, in consequence of any law or regulation therein, be discharged from such service or labor; but shall be delivered up on claim of the party to whom such service or labor may be due.

### Sec. 3. Of new states—Territories.

New states may be admitted by the congress into this Union; but no new state shall be formed or erected within the jurisdiction of any other state, nor any state be formed by the junction of two or more states or parts of states, without the consent of the legislatures of the states concerned, as well as of the congress.

The congress shall have power to dispose of, and make all needful rules and regulations respecting the territory or other property belonging to the United States; and nothing in this constitution shall be so construed as to prejudice any claims of the United States, or of any particular state.

### Sec. 4. Republican form of government guaranteed to the several states.

The United States shall guarantee to every state in this Union a republican form of government; and shall protect each of them against invasion, and, on application of the legislature, or of the executive, (when the legislature can not be convened,) against domestic violence.

**ARTICLE V.****Amendments to the constitution.**

4 The congress, whenever two-thirds of both houses shall deem it necessary, shall propose amendments to this constitution; or, on the application of the legislatures of two-thirds of the several states, shall call a convention for proposing amendments, which, in either case, shall be valid to all intents and purposes, as part of this constitution, when ratified by the legislatures of three-fourths of the several states, or by conventions in three-fourths thereof, as the one or the other mode of ratification may be proposed by the congress; provided, that no amendment which may be made prior to the year one thousand eight hundred and eight shall in any manner affect the first and fourth clauses in the ninth section of the first article; and that no state, without its consent, shall be deprived of its equal suffrage in the senate.

**ARTICLE VI.****Of the public debt—Supremacy of constitution, etc.**

✓ All debts contracted and engagements entered into, before the adoption of this constitution, shall be as valid against the United States under this constitution, as under the confederation.

This constitution, and the laws of the United States which shall be made in pursuance thereof, and all treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the land; and the judges in every state shall be bound thereby, any thing in the constitution or laws of any state to the contrary notwithstanding.

The senators and representatives before mentioned, and the members of the several state legislatures, and all executive and judicial officers, both of the United States and of the several states, shall be bound by oath or affirmation to support this constitution; but no religious test shall ever be required as a qualification to any office or public trust under the United States.

**ARTICLE VII.****Ratification.**

The ratification of the conventions of nine states shall be sufficient for the establishment of this constitution between the states so ratifying the same.



## ARTICLES

IN ADDITION TO, AND AMENDMENT OF, THE CONSTITUTION OF THE UNITED STATES OF AMERICA, PROPOSED BY CONGRESS AND RATIFIED BY THE LEGISLATURES OF THE SEVERAL STATES, PURSUANT TO THE FIFTH ARTICLE OF THE ORIGINAL CONSTITUTION.

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### ARTICLE I.

#### **Rights of conscience, speech, press, and petition.**

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the government for a redress of grievances.

### ARTICLE II.

#### **Of the right to bear arms.**

A well regulated militia being necessary to the security of a free state, the right of the people to keep and bear arms shall not be infringed.

### ARTICLE III.

#### **Of quartering troops.**

No soldier shall, in time of peace, be quartered in any house without the consent of the owner; nor in time of war, but in a manner to be prescribed by law.

### ARTICLE IV.

#### **Of the right of search, seizure, and general warrants.**

The right of the people to be secure in their persons, houses, papers and effects, against unreasonable searches and seizures, shall not be violated; and no warrants shall issue but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

### ARTICLE V.

#### **Of indictments, punishments, etc.**

No person shall be held to answer for a capital or otherwise infamous crime, unless on a presentment or indictment of a grand jury, except in cases arising in the land or naval forces, or in the militia, when in actual service, in time of war or public danger; nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use without just compensation.

**ARTICLE VI.**

**Of trial in criminal cases, and the rights of a defendant.**

In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the state and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor; and to have the assistance of counsel for his defence.

**ARTICLE VII.**

**Of trials in civil cases.**

In suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved; and no fact tried by a jury shall be otherwise re-examined in any court of the United States than according to the rules of the common law.

**ARTICLE VIII.**

**Of bail and fines.**

Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

**ARTICLE IX.**

**Of rights reserved.**

The enumeration in the constitution of certain rights shall not be construed to deny or disparage others retained by the people.

**ARTICLE X.**

**Of powers reserved to the states.**

The powers not delegated to the United States by the constitution, nor prohibited by it to the states, are reserved to the states respectively, or to the people.

**ARTICLE XI.**

**Limitation of the judicial power.**

The judicial power of the United States shall not be construed to extend to any suit in law or equity, commenced or prosecuted against one of the United States by citizens of another state, or by citizens or subjects of any foreign state.

**ARTICLE XII.**

**Manner of electing the president and vice-president.**

The electors shall meet in their respective states, and vote by ballot for president and vice-president, one of whom at least shall not be an inhabitant of the same state with themselves; they shall name in their ballots the person voted for as president, and in distinct ballots the person voted for as vice-president, and they shall make distinct lists of all persons voted for as president, and of all persons voted for as vice-president, and of the number

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of votes for each, which lists they shall sign and certify, and transmit sealed to the seat of the government of the United States, directed to the president of the senate; the president of the senate shall, in presence of the senate and house of representatives, open all the certificates, and the votes shall then be counted; the person having the greatest number of votes for president shall be the president, if such number be a majority of the whole number of electors appointed; and if no person have such majority, then from the persons having the highest numbers, not exceeding three, on the list of those voted for as president, the house of representatives shall choose immediately, by ballot, the president. But in choosing the president, the votes shall be taken by states, the representation from each state having one vote; a quorum for this purpose shall consist of a member or members from two-thirds of the states, and a majority of all the states shall be necessary to a choice. And if the house of representatives shall not choose a president whenever the right of choice shall devolve upon them, before the fourth day of March next following, then the vice-president shall act as president, as in the case of the death or other constitutional disability of the president.

The person having the greatest number of votes as vice-president shall be the vice-president, if such number be a majority of the whole number of electors appointed; and if no person have a majority, then, from the two highest numbers on the list, the senate shall choose the vice-president; a quorum for the purpose shall consist of two-thirds of the whole number of senators, and a majority of the whole number shall be necessary to a choice.

But no person constitutionally ineligible to the office of president, shall be eligible to that of vice-president of the United States.

## ARTICLE XIII.

### Section 1. Slavery abolished.

Neither slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction.

### Sec. 2. Power of congress.

Congress shall have power to enforce this article by appropriate legislation

## ARTICLE XIV.

### Section 1. Who are citizens, etc.

All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the state wherein they reside. No state shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any state deprive any person of life, liberty, or property, without due process of law, nor deny to any person within its jurisdiction the equal protection of the laws.

### Sec. 2. Apportionment of representatives, etc.

Representatives shall be apportioned among the several states according to their respective numbers, counting the whole number of persons in each state, excluding Indians not taxed. But when the right to vote at any election for the choice of electors for president and vice-president of the United States, representatives in congress, the executive and judicial officers of a state, or the members of the legislature thereof, is denied to any of the male inhabitants of such state, being twenty-one years of age, and citizens of the United States, or in any way abridged, except for participation in rebellion or other crime, the basis of representation therein shall be reduced in the proportion which the number of such male citizens shall bear to the whole number of male citizens twenty-one years of age in such state.

**Sec. 3. Disabilities of persons engaging in rebellion, etc.**

No person shall be a senator or representative in congress, or elector of president and vice-president, or hold any office, civil or military, under the United States, or under any state, who, having previously taken an oath, as a member of congress, or as an officer of the United States, or as a member of any state legislature, or as an executive or judicial officer of any state, to support the constitution of the United States, shall have engaged in insurrection or rebellion against the same, or given aid or comfort to the enemies thereof. But congress may, by a vote of two-thirds of each house, remove such disability.

**Sec. 4. Debts of United States—Debts of states in aid of rebellion.**

The validity of the public debt of the United States, authorized by law, including debts incurred for payment of pensions and bounties for services in suppressing insurrection or rebellion, shall not be questioned. But neither the United States nor any state shall assume or pay any debt or obligation incurred in aid of insurrection or rebellion against the United States, or any claim for the loss or emancipation of any slave; but all such debts, obligations and claims shall be held illegal and void.

**Sec. 5. Powers of congress.**

The congress shall have power to enforce, by appropriate legislation, the provisions of this article.

**ARTICLE XV.****Section 1.**

The right of citizens of the United States to vote shall not be denied or abridged by the United States, or by any state, on account of race, color, or previous condition of servitude.

**Sec. 2.**

The congress shall have power to enforce this article by appropriate legislation.

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**Note.**—The constitution was adopted September 17th, 1787, by the unanimous consent of the states present in the convention appointed in pursuance of the resolution of the congress of the confederation, of February 21st, 1787, and was ratified by the conventions of the several states, as follows, viz: By convention of Delaware, December 7th, 1787; Pennsylvania, December 12th, 1787; New Jersey, December 18th, 1787; Georgia, January 2d, 1788; Connecticut, January 9th, 1788; Massachusetts, February 6th, 1788; Maryland, April 28th, 1788; South Carolina, May 23d, 1788; New Hampshire, June 21st, 1788; Virginia, June 26th, 1788; New York, July 26th, 1788; North Carolina, November 21st, 1789; Rhode Island, May 29th, 1790.

The first ten of the amendments were proposed at the first session of the first congress of the United States, September 25th, 1789, and were finally ratified by the constitutional number of states, December 15th, 1791. The eleventh amendment was proposed at the first session of the third congress, March 5th, 1794, and was declared in a message from the president of the United States to both houses of congress, dated January 8th, 1798, to have been adopted by the constitutional number of states. The twelfth amendment was proposed at the first session of the eighth congress, December 12th, 1803, and was adopted by the constitutional number of states in 1804, according to a public notice thereof by the secretary of state, dated September 25th, 1804.

The thirteenth amendment was proposed at the second session of the thirty-eighth congress, February 1st, 1865, and was adopted by the constitutional number of states in 1865, according to a public notice thereof by the secretary of state, dated December 18th, 1865.

The fourteenth amendment took effect July 28th, 1868.

The fifteenth amendment took effect March 30th, 1870.

The Northwest Territorial Government—1787.

(THE CONFEDERATE CONGRESS, JULY 13, 1787.)

An ordinance for the government of the territory of the United States north-west of the river Ohio.

Section 1. Be it ordained by the United States in Congress assembled, That the said territory, for the purpose of temporary government, be one district, subject, however, to be divided into two districts, as future circumstances may, in the opinion of Congress, make it expedient.

Sec. 2. Be it ordained by the authority aforesaid, That the estates both of resident and nonresident proprietors in the said territory, dying intestate, shall descend to, and be distributed among, their children and the descendants of a deceased child in equal parts, the descendants of a deceased child or grandchild to take the share of their deceased parent in equal parts among them; and where there shall be no children or descendants, then in equal parts to the next of kin, in equal degree; and among collaterals, the children of a deceased brother or sister of the intestate shall have, in equal parts among them, their deceased parent's share; and there shall, in no case, be a distinction between kindred of the whole and half blood; saving in all cases to the widow of the intestate, her third part of the real estate for life, and one-third part of the personal estate; and this law relative to descents and dower, shall remain in full force until altered by the legislature of the district. And until the governor and judges shall adopt laws as hereinafter mentioned, estates in the said territory may be devised or bequeathed by wills in writing, signed and sealed by him or her in whom the estate may be, (being of full age,) and attested by three witnesses; and real estates may be conveyed by lease and release, or bargain and sale, signed, sealed and delivered by the person, being of full age, in whom the estate may be, and attested by two witnesses, provided such wills be duly proved, and such conveyances be acknowledged, or the execution thereof duly proved, and be recorded within one year after proper magistrates, courts and registers, shall be appointed for that purpose; and personal property may be transferred by delivery, saving, however, to the French and Canadian inhabitants, and other settlers of the Kaskaskies, Saint Vincents, and the neighboring villages, who have heretofore professed themselves citizens of Virginia, their laws and customs now in force among them, relative to the descent and conveyance of property.

Sec. 3. Be it ordained by the authority aforesaid, That there shall be appointed, from time to time, by Congress, a governor, whose commission shall continue in force for the term of three years, unless sooner revoked by Congress; he shall reside in the district, and have a freehold estate therein, in one thousand acres of land, while in the exercise of his office.

Sec. 4. There shall be appointed from time to time, by Congress, a secretary, whose commission shall continue in force for four years, unless sooner revoked; he shall reside in the district, and have a freehold estate therein, in five hundred acres of land, while in the exercise of his office. It shall be his duty to keep and preserve the acts and laws passed by the legislature, and the public records of the district, and the proceedings of the governor in his executive department, and transmit authentic copies of such acts and proceedings every six months to the Secretary of Congress. There shall also be appointed a court, to consist of three judges, any two of whom

to form a court, who shall have a common-law jurisdiction, and reside in the district, and have each therein a freehold estate, in five hundred acres of land, while in the exercise of their offices; and their commissions shall continue in force during good behavior.

Sec. 5. The governor and judges, or a majority of them, shall adopt and publish in the district such laws of the original States, criminal and civil, as may be necessary, and best suited to the circumstances of the district, and report them to Congress from time to time, which laws shall be in force in the district until the organization of the general assembly therein, unless disapproved of by Congress; but afterwards the legislature shall have authority to alter them as they shall think fit.

Sec. 6. The governor, for the time being, shall be commander-in-chief of the militia, appoint and commission all officers in the same below the rank of general officers; all general officers shall be appointed and commissioned by Congress;

Sec. 7. Previous to the organization of the general assembly the governor shall appoint such magistrates, and other civil officers, in each county or township, as he shall find necessary for the preservation of the peace and good order in the same. After the general assembly shall be organized the powers and duties of magistrates and other civil officers shall be regulated and defined by the said assembly; but all magistrates and other civil officers, not herein otherwise directed, shall, during the continuance of this temporary government, be appointed by the governor.

Sec. 8. For the prevention of crimes and injuries, the laws to be adopted or made shall have force in all parts of the district, and for the execution of process, criminal and civil, the governor shall make proper divisions thereof; and he shall proceed, from time to time, as circumstances may require, to lay out the parts of the district in which the Indian titles have been extinguished, into counties and townships, subject however, to such alterations as may thereafter be made by the legislature.

Sec. 9. So soon as there shall be five thousand free male inhabitants, of full age, in the district, upon giving proof thereof to the governor they shall receive authority, with time and place, to elect representatives from their counties or townships, to represent them in the general assembly: Provided, That for every five hundred free male inhabitants there shall be one representative, and so on, progressively, with the number of free male inhabitants, shall the right of representation increase, until the number of representatives shall amount to twenty-five; after which the number and proportion of representatives shall be regulated by the legislature: Provided, that no person be eligible or qualified to act as a representative, unless he shall have been a citizen of one of the United States three years, and be a resident in the district, or unless he shall have resided in the district three years; and, in either case, shall likewise hold in his own right, in fee-simple, two hundred acres of land within the same: Provided also, That a freehold in fifty acres of land in the district, having been a citizen in one of the States, and being resident in the district, or the like freehold and two years' residence in the district, shall be necessary to qualify a man as an elector of a representative.

Sec. 10. The representatives thus elected shall serve for the term of two years; and in case of the death of a representative, or removal from office, the governor shall issue a writ to the county or township, for which he was a member, to elect another in his stead, to serve for the residue of the term.

Sec. 11. The general assembly or legislature, shall consist of the governor, legislative council, and a house of representatives. The legislative council shall consist of five members, to continue in office five years, unless sooner removed by Congress; any three of whom to be a quorum; and the members of the council shall be nominated and appointed in the following manner, to-wit: As soon as representatives shall be elected the governor shall appoint a time and place for them to meet together, and when met they shall nominate ten persons, resident in the district, and each possessed of a freehold in five hundred acres of land, and return their names to Congress, five of whom Congress shall appoint and commission to serve as

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aforesaid; and whenever a vacancy shall happen in the council, by death or removal from office, the house of representatives shall nominate two persons, qualified as aforesaid, for each vacancy, and return their names to Congress, one of whom Congress shall appoint and commission for the residue of the term; and every five years, four months at least before the expiration of the time of service of the members of the council, the said house shall nominate ten persons, qualified as aforesaid, and return their names to Congress, five of whom Congress shall appoint and commission to serve as members of the council five years, unless sooner removed. And the governor, legislative council, and house of representatives shall have authority to make laws in all cases for the good government of the district, not repugnant to the principles and articles in this ordinance established and declared. And all bills, having passed by a majority in the house, and by a majority in the council, shall be referred to the governor for his assent; but no bill, or legislative act whatever, shall be of any force without his assent. The governor shall have power to convene, prorogue, and dissolve the general assembly when, in his opinion, it shall be expedient.

Sec. 12. The governor, judges, legislative council, secretary and such other officers as Congress shall appoint in the district, shall take an oath or affirmation of fidelity, and of office; the governor before the President of Congress, and all other officers before the governor. As soon as a legislature shall be formed in the district, the council and house assembled, in one room, shall have authority, by joint ballot, to elect a delegate to Congress, who shall have a seat in Congress, with a right of debating, but not of voting, during this temporary government.

Sec. 13. And for extending the fundamental principles of civil and religious liberty, which form the basis whereon these republics, their laws and constitutions, are erected; to fix and establish those principles as the basis of all laws, constitutions, and governments, which forever hereafter shall be formed in the said territory; to provide, also, for the establishment of States, and permanent government therein, and for their admission to a share in the Federal councils on an equal footing with the original States, at as early periods as may be consistent with the general interest:

Sec. 14. It is hereby ordained and declared, by the authority aforesaid, that the following articles shall be considered as articles of compact, between the original States and the people and States in the said territory, and forever remain unalterable, unless by common consent, to wit:

## ARTICLE I.

No person, demeaning himself in a peaceable and orderly manner, shall ever be molested on account of his mode of worship, or religious sentiments, in the said territories.

## ARTICLE II.

The inhabitants of the said territory shall always be entitled to the benefits of the writs of habeas corpus, and of the trial by jury; of a proportionate representation of the people in the legislature, and of judicial proceedings according to the course of the common law. All persons shall be ballable, unless for capital offences, where the proof shall be evident, or the presumption great. All fines shall be moderate; and no cruel or unusual punishments shall be inflicted. No man shall be deprived of his liberty or property, but by the judgment of his peers, or the law of the land, and should the public exigencies make it necessary for the common preservation, to take any person's property, or to demand his particular services, full compensation shall be made for the same. And, in the just preservation of rights and property, it is understood and declared, that no law ought ever to be made or have force in the said territory, that shall, in any manner whatever, interfere with or affect private contracts, or engagements, bona fide, and without fraud previously formed.

**ARTICLE III.**

Religion, morality, and knowledge being necessary to good government and the happiness of mankind, schools and the means of education shall forever be encouraged. The utmost good faith shall always be observed towards the Indians; their lands and property shall never be taken from them without their consent; and in their property, rights, and liberty they never shall be invaded or disturbed, unless in just and lawful wars authorized by Congress; but laws founded in justice and humanity shall, from time to time, be made, for preventing wrongs being done to them, and for preserving peace and friendship with them.

**ARTICLE IV.**

The said territory, and the States which may be formed therein, shall forever remain a part of this confederacy of the United States of America, subject to the Articles of Confederation, and to such alterations therein as shall be constitutionally made; and to all the acts and ordinances of the United States in Congress assembled, conformable thereto. The inhabitants and settlers in the said territory shall be subject to pay a part of the Federal debts, contracted or to be contracted, and a proportional part of the expenses of government to be apportioned on them by Congress, according to the same common rule and measure by which apportionments thereof shall be made on the other States; and the taxes for paying their proportion shall be laid and levied by the authority and direction of the legislatures of the district or districts, or new States, as in the original States, within the time agreed upon by the United States in Congress assembled. The legislatures of those districts, or new States, shall never interfere with the primary disposal of the soil by the United States in Congress assembled, nor with any regulations Congress may find necessary for securing the title in such soil to the bona-fide purchasers. No tax shall be imposed on lands the property of the United States; and in no case shall non-resident proprietors be taxed higher than residents. The navigable waters leading into the Mississippi and Saint Lawrence, and the carrying places between the same, shall be common highways, and forever free, as well to the inhabitants of the said territory as to the citizens of the United States, and those of any other States that may be admitted into the confederacy, without any tax, impost, or duty therefor.

**ARTICLE V.**

There shall be formed in the said territory not less than three nor more than five States; and the boundaries of the States, as soon as Virginia shall alter her act of cession and consent to the same, shall become fixed and established as follows, to wit: The western State, in the said territory, shall be bounded by the Mississippi, the Ohio and the Wabash Rivers; a direct line drawn from the Wabash and Post Vincents, due north, to the territorial line between the United States and Canada; and by the said territorial line to the Lake of the Woods and Mississippi. The middle State shall be bounded by the said direct line, The Wabash from Post Vincents to the Ohio, by the Ohio, by a direct line drawn due north from the mouth of the Great Miami to the said territorial line, and by the said territorial line. The eastern State shall be bounded by the last-mentioned direct line, the Ohio, Pennsylvania, and the said territorial line: Provided, however, And it is further understood and declared, that the boundaries of these three States shall be subject so far to be altered, that, if Congress shall hereafter find it expedient, they shall have authority to form one or two States in that part of the said territory which lies north of an east and west line drawn through the southerly bend or extreme of Lake Michigan. And whenever any of the



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said States shall have sixty thousand free inhabitants therein, such State shall be admitted, by its delegates, into the Congress of the United States, on an equal footing with the original States, in all respects whatever; and shall be at liberty to form a permanent constitution and State government: Provided, the constitution and government, so to be formed, shall be republican, and in conformity to the principles contained in these articles, and, so far as it can be consistent with the general interest of the confederacy, such admission shall be allowed at an earlier period, and when there may be a less number of free inhabitants in the State than sixty thousand.

## ARTICLE VI.

There shall be neither slavery nor involuntary servitude in the said territory, otherwise than in the punishment of crimes, whereof the party shall have been duly convicted: Provided always, That any person escaping into the same, from whom labor or service is lawfully claimed in any one of the original States, such fugitive may be lawfully reclaimed, and conveyed to the person claiming his or her labor or service as aforesaid.

Be it ordained by the authority aforesaid, That the resolutions of the 23d of April, 1784, relative to the subject of this ordinance, be, and the same are hereby, repealed, and declared null and void.

Done by the United States, in Congress assembled, the 13th day of July, in the year of our Lord 1787, and of their sovereignty and independence the twelfth.

Wallace v. Parker, 6 Pet. 690; Jones v. Van Zandt, 5 How. 215; Strader et al. v. Graham, 10 How. 82; Pennsylvania v. Wheeling Bridge Company, 18 How. 421; Bates v. Brown, 5 Wall. 710; Messenger v. Mason, 10 Wall. 507; Clinton et al. v. Englebrecht, 13 Wall. 434; Langdean v. Hanes, 21 Wall. 521; Morton v. Nebraska, 21 Wall. 660.

ORGANIC ACT OF MINNESOTA.

Section.

1. Temporary government for territory of Minnesota established; power to divide said territory, or to attach a portion of it to a state or territory reserved.
2. The executive power vested in the governor; his tenure of office, powers, duties, and emoluments.
3. Secretary, his powers and duties; in case of death, resignation, or removal of governor, the secretary to act as governor.
4. Legislative power, how vested; legislative assembly to consist of council and house of representatives; proviso, number of councillors and representatives limited; apportionment of representation; census to be taken; when; how elections shall be conducted; proviso; proviso as to terms of sessions of legislative assembly.
5. Qualifications of voters; proviso.
6. Extent of legislative powers.
7. How township, district and county officers shall be appointed.
8. No member of the legislative assembly to hold office created while he was a member, or for one year thereafter; officers of the government of the United States, except postmasters, not to be members of the assembly.
9. Judicial power, how vested; supreme court; district courts; jurisdiction of the supreme, district and probate courts, and justices of the peace; clerks of district courts; clerk of supreme court; fees of clerk.
10. Attorney and marshal, their fees and emoluments.
11. Governor, secretary, chief and associate justices, attorney and marshal, how to be appointed; each to take official oaths, &c.; salary of governor; salaries of chief and associate justices; salary of secretary; compensation of members of legislative assembly; provision for contingent expenses, &c.
12. Inhabitants to be entitled to all the rights and privileges secured to inhabitants of Wisconsin; laws of Wisconsin to continue in force.
13. Seat of government for said territory; appropriation for public buildings.
14. Delegate to congress of the United States to be elected.
15. All suits, process, and proceedings at law, &c., pending in the courts of Wisconsin, within the limits of said territory, transferred to district courts of said territory.
16. Justices of the peace, constables, &c., continued in office till others are appointed to succeed them.
17. Appropriation for library.
18. Reservation of lands for use of schools.
19. Until otherwise provided by law, the governor may define the judicial districts, and assign the judges to them, &c.
20. How laws shall be enacted by legislative assembly and approved by the governor.

*An act to establish the territorial government of Minnesota.*

[Passed March 3, 1849.]

**Section 1. Temporary government for territory of Minnesota established.**

Be it enacted by the senate and house of representatives of the United States of America in congress assembled, That from and after the passage of this act, all that part of the territory of the United States which lies within the following limits, to wit: Beginning in the Mississippi river, at the point where the line of forty-three degrees and thirty minutes of north latitude crosses the same, thence running due west on said line, which is the northern boundary of the state of Iowa, to the northwest corner of the said state of Iowa, thence southerly along the western boundary of said state to the point where said boundary strikes the Missouri river, thence up the middle of the main channel of the Missouri river to the mouth of White-earth river, thence up the middle of the main channel of the White-earth river to the boundary line between the possessions of the United States and Great Britain; thence east and south of east along the boundary line between the

possessions of the United States and Great Britain to Lake Superior; thence in a straight line to the northernmost point of the state of Wisconsin in Lake Superior; thence along the western boundary line of said state of Wisconsin to the Mississippi river; thence down the main channel of said river to the place of beginning, be, and the same is hereby erected into a temporary government by the name of the territory of Minnesota: provided, that nothing in this act contained shall be construed to inhibit the Government of the United States from dividing said territory into two or more territories, in such manner and at such times as congress shall deem convenient and proper, or from attaching any portion of said territory to any other state or territory of the United States.

**Sec. 2. The governor—His tenure of office, powers, duties, and emoluments.**

And be it further enacted, That the executive power and authority in and over said territory of Minnesota shall be vested in a governor, who shall hold his office for four years, and until his successor shall be appointed and qualified, unless sooner removed by the president of the United States. The governor shall reside within said territory, shall be commander-in-chief of the militia thereof, shall perform the duties and receive emoluments of superintendent of Indian affairs; he may grant pardons for offences against the laws of said territory, and reprieves for offences against the laws of the United States until the decision of the president can be made known thereon; he shall commission all officers who shall be appointed to office under the laws of the said territory, and shall take care that the laws be faithfully executed.

**Sec. 3. Secretary—His powers and duties.**

And be it further enacted, That there shall be a secretary of said territory, who shall reside therein, and hold his office for four years, unless sooner removed by the president of the United States; he shall record and preserve all the laws and proceedings of the legislative assembly hereinafter constituted, and all the acts and proceedings of the governor in his executive department; he shall transmit one copy of the laws and one copy of the executive proceedings, on or before the first day of December in each year, to the president of the United States, and at the same time two copies of the laws to the speaker of the house of representatives, and the president of the senate, for the use of congress. And in case of the death, removal, resignation, or necessary absence of the governor from the territory, the secretary shall be, and he is hereby, authorized and required to execute and perform all the powers and duties of the governor during such vacancy or necessary absence, or until another governor shall be duly appointed to fill such vacancy.

**Sec. 4. Legislative power, in whom vested.**

And be it further enacted, That the legislative power and authority of said territory shall be vested in the governor and a legislative assembly. The legislative assembly shall consist of a council and house of representatives. The council shall consist of nine members, having the qualifications of voters as hereinafter prescribed, whose term of service shall continue two years. The house of representatives shall, at its first session, consist of eighteen members, possessing the same qualifications as prescribed for members of the council, and whose term of service shall continue one year. The number of councillors and representatives may be increased by the legislative assembly, from time to time, in proportion to the increase of population; provided, that the whole number shall never exceed fifteen councillors and thirty-nine representatives. An apportionment shall be made, as nearly equal as practicable, among the several counties or districts for the election of the council and representatives, giving to each section of the territory representation in the ratio of its population, Indians excepted, as nearly as may be. And the members of the council and of the house of representatives shall reside in and be inhabitants of the district for which they may be elected respectively. Previous to the first election, the governor shall cause a census or enumera-

tion of the inhabitants of the several counties and districts of the territory to be taken, and the first election shall be held at such time and places, and be conducted in such manner, as the governor shall appoint and direct; and he shall, at the same time, declare the number of members of the council and house of representatives to which each of the counties and districts shall be entitled under this act.

The number of persons authorized to be elected having the highest number of votes in each of said council districts for members of the council, shall be declared by the governor to be duly elected to the council; and the person or persons authorized to be elected, having the greatest number of votes for the house of representatives, equal to the number to which each county or district shall be entitled, shall also be declared by the governor to be duly elected members of the house of representatives: provided, That in case of a tie between two or more persons voted for, the governor shall order a new election to supply the vacancy made by such tie. And the persons thus elected to the legislative assembly shall meet at such place on such day as the governor shall appoint; but thereafter the time, place and manner of holding and conducting all elections by the people, and the apportioning of the representation in the several counties or districts to the council and house of representatives according to the population, shall be prescribed by law, as well as the day of the commencement of the regular sessions of the legislative assembly: provided, that no one session shall exceed the term of sixty days.

#### **Sec. 5. Qualification of voters.**

And be it further enacted, That every free white male inhabitant above the age of twenty-one years, who shall have been a resident of said territory at the time of the passage of this act, shall be entitled to vote at the first election, and shall be eligible to any office within the said territory; but the qualifications of voters and of holding office at all subsequent elections shall be such as shall be prescribed by the legislative assembly: provided, that the right of suffrage and of holding office shall be exercised only by citizens of the United States, and those who shall have declared on oath their intention to become such, and shall have taken an oath to support the constitution of the United States and the provisions of this act.

#### **Sec. 6. Extent of the legislative power.**

And be it further enacted, That the legislative power of the territory shall extend to all rightful subjects of legislation, consistent with the constitution of the United States and the provisions of this act; but no law shall be passed interfering with the primary disposal of the soil; no tax shall be imposed upon the property of the United States; nor shall the lands or other property of non-residents be taxed higher than the lands or other property of residents. All the laws passed by the legislative assembly and governor shall be submitted to the congress of the United States, and, if disapproved, shall be null and of no effect.

#### **Sec. 7. Township, district, and county officers.**

And be it further enacted, That all township, district and county officers, not herein otherwise provided for, shall be appointed or elected, as the case may be, in such manner as shall be provided by the governor and legislative assembly of the territory of Minnesota. The governor shall nominate, and, by and with the advice and consent of the legislative council, appoint, all officers not herein otherwise provided for; and in the first instance the governor alone may appoint all said officers, who shall hold their offices until the end of the next session of the legislative assembly.

#### **Sec. 8. No member of assembly to hold office created while he was a member of the assembly.**

And be it further enacted, That no member of the legislative assembly shall hold or be appointed to any office which shall have been created, or the salary or emoluments of which shall have been increased while he was a member, during the term for which he was elected, and for one year after the

expiration of such term; and no person holding a commission or appointment under the United States, except postmasters, shall be a member of the legislative assembly, or shall hold any office under the government of said territory.

### **Sec. 9. Judicial power—Courts—Jurisdiction.**

And be it further enacted, That the judicial power of said territory shall be vested in a supreme court, district courts, probate courts, and in justices of the peace. The supreme court shall consist of a chief justice and two associate justices, any two of whom shall constitute a quorum, and who shall hold a term at the seat of government of said territory annually, and they shall hold their offices during the period of four years. The said territory shall be divided into three judicial districts, and a district court shall be held in each of said districts by one of the justices of the supreme court, at such times and places as may be prescribed by law; and the said judges shall, after their appointment, respectively, reside in the districts which shall be assigned them. The jurisdiction of the several courts herein provided for, both appellate and original, and that of probate courts and of justices of the peace, shall be as limited by law: provided, that the justices of the peace shall not have jurisdiction of any matter in controversy when the title or boundaries of land may be in dispute, or where the debt or sum claimed shall exceed one hundred dollars; and the said supreme and district courts, respectively, shall possess chancery as well as common-law jurisdiction. Each district court, or the judge thereof, shall appoint its clerk, who shall also be the register in chancery, and shall keep his office at the place where the court may be held. Writs of error, bills of exception and appeals, shall be allowed in all cases from the final decisions of said district courts to the supreme court under such regulations as may be prescribed by law, but in no case removed to the supreme court shall trial by jury be allowed in said court. The supreme court, or the justices thereof, shall appoint its own clerk, and every clerk shall hold his office at the pleasure of the court for which he shall have been appointed. Writs of error and appeals from the final decisions of said supreme court shall be allowed and may be taken to the supreme court of the United States, in the same manner and under the same regulations as from the circuit courts of the United States, where the value of the property or the amount in controversy, to be ascertained by the oath or affirmation of either party, or other competent witness, shall exceed one thousand dollars; and each of the said district courts shall have and exercise the same jurisdiction, in all cases arising under the constitution and laws of the United States, as is vested in the circuit and district courts of the United States; and the first six days of every term of said courts, or so much thereof as shall be necessary, shall be appropriated to the trial of causes arising under the said constitution and laws; and writs of error and appeal in all such cases shall be made to the supreme court of said territory, the same as in other cases. The said clerk shall receive, in all such cases, the same fees which the clerks of the district courts of the late Wisconsin territory received for similar services.

### **Sec. 10. Attorney and marshal—Their compensation.**

And be it further enacted, That there shall be appointed an attorney for said territory, who shall continue in office for four years, unless sooner removed by the president, and who shall receive the same fees and salary as the attorney of the United States for the late territory of Wisconsin received. There shall also be a marshal for the territory appointed, who shall hold his office for four years, unless sooner removed by the president, and who shall execute all processes issuing from the said courts, when exercising their jurisdiction as circuit and district courts of the United States; he shall perform the duties, be subject to the same regulations and penalties, and be entitled to the same fees, as the marshal of the district court of the United States for the late territory of Wisconsin; and shall, in addition, be paid two hundred dollars annually as a compensation for extra services.

**Sec. 11. Governor, judges, etc., how appointed—Salaries—  
Per diem, etc., of members of assembly.**

And be it further enacted, That the governor, secretary, chief justice, and associate justices, attorney and marshal, shall be nominated, and, by and with the advice and consent of the senate, appointed by the president of the United States. The governor and secretary to be appointed as aforesaid, shall, before they act as such; respectively take an oath or affirmation, before the district judge, or some justice of the peace in the limits of said territory, duly authorized to administer oaths and affirmations by the laws now in force therein, or before the chief justice or some associate justice of the supreme court of the United States, to support the constitution of the United States, and faithfully to discharge the duties of their respective offices; which said oaths, when so taken, shall be certified by the person by whom the same shall have been taken, and such certificates shall be received and recorded by the said secretary among the executive proceedings; and the chief justice and associate justices, and all other civil officers in said territory, before they act as such, shall take a like oath or affirmation, before the said governor or secretary, or some judge or justice of the peace of the territory, who may be duly commissioned and qualified, which said oath or affirmation shall be certified and transmitted by the person taking the same, to the secretary, to be by him recorded as aforesaid; and afterwards, the like oath or affirmation shall be taken, certified, and recorded in such manner and form as may be prescribed by law. The governor shall receive an annual salary of fifteen hundred dollars as governor, and one thousand dollars as superintendent of Indian affairs. The chief justice and associate justices shall each receive an annual salary of eighteen hundred dollars. The secretary shall receive an annual salary of eighteen hundred dollars. The said salaries shall be paid quarter-yearly, at the treasury of the United States. The members of the legislative assembly shall be entitled to receive three dollars each per day during their attendance at the session thereof, and three dollars each for every twenty miles travel in going to and returning from the said sessions, estimated according to the nearest usually travelled route. There shall be appropriated, annually, the sum of one thousand dollars, to be expended by the governor to defray the contingent expenses of the territory; and there shall also be appropriated, annually, a sufficient sum, to be expended by the secretary of the territory, and upon an estimate to be made by the secretary of the treasury of the United States, to defray the expenses of the legislative assembly, the printing of the laws, and other incidental expenses; and the secretary of the territory shall annually account to the secretary of the treasury of the United States for the manner in which the aforesaid sum shall have been expended.

**Sec. 12. Inhabitants to be entitled to all the rights of inhabitants of Wisconsin—Laws of Wisconsin to continue in force.**

And be it further enacted, That the inhabitants of the said territory shall be entitled to all the rights, privileges, and immunities heretofore granted and secured to the territory of Wisconsin and to its inhabitants; and the laws in force in the territory of Wisconsin at the date of the admission of the state of Wisconsin shall continue to be valid and operative therein, so far as the same be not incompatible with the provisions of this act, subject, nevertheless, to be altered, modified, or repealed by the governor and legislative assembly of the said territory of Minnesota; and the laws of the United States are hereby extended over and declared to be in force in said territory, so far as the same, or any provision thereof, may be applicable.

**Sec. 13. Seat of government for said territory.**

And be it further enacted, That the legislative assembly of the territory of Minnesota shall hold its first session at St. Paul; and at said first session the governor and legislative assembly shall locate and establish a temporary seat of government for said territory, at such place as they may deem eligible; and shall, at such time as they shall see proper, prescribe by law the manner of locating the permanent seat of government of said territory by a vote of

the people. And the sum of twenty thousand dollars, out of any money in the treasury not otherwise appropriated, is hereby appropriated and granted to said territory of Minnesota, to be applied, by the governor and legislative assembly, to the erection of suitable public buildings at the seat of government.

**Sec. 14 Delegate to congress of the United States.**

And be it further enacted, That a delegate to the house of representatives of the United States, to serve for the term of two years, may be elected by the voters qualified to elect members of the legislative assembly, who shall be entitled to the same rights and privileges as are exercised and enjoyed by the delegates from the several other territories of the United States to the said house of representatives. The first election shall be held at such times and places, and be conducted in such manner, as the governor shall appoint and direct; and at all subsequent elections, the times, places and manner of holding the elections shall be prescribed by law. The person having the greatest number of votes shall be declared by the governor to be duly elected, and a certificate thereof shall be given accordingly.

**Sec. 15. Suits and proceedings at law, etc., pending in the courts of Wisconsin.**

And be it further enacted, That all suits, process, and proceedings, civil and criminal, at law and in chancery, and all indictments and informations, which shall be pending and undetermined in the courts of the territory of Wisconsin, within the limits of said territory of Minnesota, when this act shall take effect, shall be transferred to be heard, tried, prosecuted and determined in the district courts hereby established which may include in the counties or districts where any such proceedings may be pending. All bonds, recognizances, and obligations of every kind whatsoever, valid under the existing laws, within the limits of said territory, shall be valid under this act; and all crimes and misdemeanors against the laws in force within said limits may be prosecuted, tried and punished in the courts established by this act; and all penalties, forfeitures, actions, and causes of action, may be recovered under this act, the same as they would have been under the laws in force within the limits composing said territory at the time this act shall go into operation.

**Sec. 16. Justices of the peace, etc., continued in office until successors are appointed.**

And be it further enacted, That all justices of the peace, constables, sheriffs, and all other judicial and ministerial officers, who shall be in office within the limits of said territory when this act shall take effect, shall be and they are hereby authorized and required to continue to exercise and perform the duties of their respective offices as officers of the territory of Minnesota, temporarily, and until they or others shall be duly appointed and qualified to fill their places in the manner herein directed, or until their offices shall be abolished.

**Sec. 17. Appropriation for library.**

And be it further enacted, That the sum of five thousand dollars be and the same is hereby appropriated, out of any moneys in the treasury not otherwise appropriated, to be expended by and under the direction of the said governor of the territory of Minnesota, in the purchase of a library, to be kept at the seat of government, for the use of the governor, legislative assembly, judges of the supreme court, secretary, marshal and attorney of said territory, and such other persons and under such regulations as shall be prescribed by law.

**Sec. 18. Reservation of lands for schools.**

And be it further enacted, That when the lands in the said territory shall be surveyed under the direction of the government of the United States, preparatory to bringing the same into market, sections numbered sixteen and thirty-six in each township in said territory shall be, and the same are hereby,

reserved, for the purpose of being applied to schools in said territory, and in the state and territories hereafter to be erected out of the same.

**Sec. 19. Governor to define the judicial districts, etc., temporarily.**

And be it further enacted, That temporarily, and until otherwise provided by law, the governor of said territory may define the judicial districts of said territory, and assign the judges who may be appointed for said territory to the several districts, and also appoint the times and places for holding courts in the several counties or subdivisions in each of said judicial districts, by proclamation to be issued by him; but the legislative assembly, at their first or any subsequent session, may organize, alter or modify such judicial districts, and assign the judges, and alter the times and places of holding the courts, as to them shall seem proper and convenient.

**Sec. 20. How laws shall be enacted by the assembly and approved by the governor.**

And be it further enacted, That every bill which shall or may pass the council and house of representatives, shall, before it becomes a law, be presented to the governor of the territory; if he approve, he shall sign it; but if not, he shall return it, with his objections, to the house in which it originated; which shall cause the objections to be entered at large upon their journal, and proceed to reconsider it. If, after such reconsideration, two-thirds of that house shall agree to pass the bill, it shall be sent, together with the objections, to the other house, by which it shall also be reconsidered, and if approved by two-thirds of that house, it shall become a law; but in all such cases the votes of both houses shall be determined by yeas and nays, and the names of the persons voting for and against the bill shall be entered on the journal of each house respectively. If any bill shall not be returned by the governor within three days (Sundays excepted) after it shall have been presented to him, the same shall be a law in like manner as if he had signed it, unless the legislative assembly, by adjournment, prevent it; in which case it shall not become a law.



ACT AUTHORIZING A STATE GOVERNMENT.

Section.

1. Inhabitants of part of Minnesota authorized to form a constitution and state government—boundaries designated.
2. Jurisdiction over bordering waters which are declared to be common highways.
3. Convention of delegates to be held—mode of election—meeting of convention.
4. Census—representative in congress.
5. Propositions to be acted on by the convention—school lands—land for a university—land for public buildings—salt springs—percentage on land sales—the above propositions made conditional.

*An act to authorize the people of Minnesota to form a Constitution and State Government, preparatory to their admission into the Union on an equal footing with the original states.*

[Passed February 26, 1857.]

**Section 1. Inhabitants of part of Minnesota authorized to form a constitution and state government.**

Be it enacted by the senate and house of representatives of the United States of America in congress assembled, That the inhabitants of that portion of the territory of Minnesota which is embraced within the following limits, to wit: beginning at the point in the centre of the main channel of the Red river of the north, where the boundary line between the United States and the British possessions crosses the same; thence up the main channel of said river to that of the Bois des Sioux river; thence up the main channel of said river to lake Traverse; thence up the centre of said lake to the southern extremity thereof; thence in a direct line to the head of Big Stone Lake; thence through its centre to its outlet; thence by a due south line to the north line of the state of Iowa; thence along the northern boundary of said state to the main channel of the Mississippi river; thence up the main channel of said river, and following the boundary line of the state of Wisconsin, until the same intersects the St. Louis river; thence down the said river to and through Lake Superior on the boundary line of Wisconsin and Michigan, until it intersects the dividing line between the United States and the British possessions; thence up Pigeon river, and following said dividing line, to the place of beginning, be, and they hereby are authorized to form for themselves a constitution and state government, by the name of the state of Minnesota, and to come into the Union on an equal footing with the original states, according to the federal constitution.

**Sec. 2. Jurisdiction over bordering waters which are declared to be common highways.**

And be it further enacted, That the state of Minnesota shall have concurrent jurisdiction on the Mississippi and all other rivers and waters bordering on the said state of Minnesota, so far as the same shall form a common boundary to said state, and any state or states now or hereafter to be formed or bounded by the same; and said river or waters leading into the same shall be common highways, and for ever free, as well to the inhabitants of said state as to all other citizens of the United States, without any tax, duty, impost, or toll therefor.

**Sec. 3. Convention of delegates to be held.**

And be it further enacted, That on the first Monday in June next, the legal voters in each representative district then existing within the limits of the proposed state are hereby authorized to elect two delegates for each repre-

sentative to which said district may be entitled according to the apportionment for representatives to the territorial legislature, which election for delegates shall be held and conducted, and the returns made, in all respects in conformity with the laws of said territory regulating the election of representatives; and the delegates so elected shall assemble at the capitol of said territory on the second Monday in July next, and first determine, by a vote, whether it is the wish of the people of the proposed state to be admitted into the Union at that time; and if so, shall proceed to form a constitution, and take all necessary steps for the establishment of a state government, in conformity with the federal constitution, subject to the approval and ratification of the people of the proposed state.

#### **Sec. 4. Census—Representatives in congress.**

And be it further enacted, That in the event said convention shall decide in favor of the immediate admission of the proposed state into the Union, it shall be the duty of the United States marshal for said territory to proceed to take a census or enumeration of the inhabitants within the limits of the proposed state, under such rules and regulations as shall be prescribed by the secretary of the interior, with the view of ascertaining the number of representatives to which said state may be entitled in the congress of the United States; and said state shall be entitled to one representative, and such additional representatives as the population of the state shall, according to the census, show it would be entitled to according to the present ratio of representation.

#### **Sec. 5. Propositions to be acted on by the convention.**

And be it further enacted, That the following propositions be, and the same are hereby, offered to the said convention of the people of Minnesota for their free acceptance or rejection, which, if accepted by the convention, shall be obligatory on the United States and upon the said state of Minnesota, to wit:

##### **School lands.**

First, That sections numbered sixteen and thirty-six in every township of public lands in said state, and where either of said sections, or any part thereof, has been sold or otherwise been disposed of, other lands, equivalent thereto and as contiguous as may be, shall be granted to said state for the use of schools.

##### **University lands.**

Second, That seventy-two sections of land shall be set apart and reserved for the use and support of a state university, to be selected by the governor of said state, subject to the approval of the commissioner at the general land office, and to be appropriated and applied in such manner as the legislature of said state may prescribe for the purpose aforesaid, but for no other purpose.

##### **Land for public buildings.**

Third, That ten entire sections of land, to be selected by the governor of said state, in legal subdivisions, shall be granted to said state for the purpose of completing the public buildings, or for the erection of others at the seat of government, under the direction of the legislature thereof.

##### **Salt springs.**

Fourth, That all salt springs within said state, not exceeding twelve in number, with six sections of land adjoining or as contiguous as may be to each, shall be granted to said state for its use; the same to be selected by the governor thereof within one year after the admission of said state, and, when so selected, to be used or disposed of on such terms, conditions and regulations as the legislature shall direct: provided, that no salt spring or land, the right whereof is now vested in any individual or individuals, or which may be hereafter confirmed or adjudged to any individual or individuals, shall by this article be granted to said state.

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ACT AUTHORIZING A STATE GOVERNMENT.

## **Percentage on land sales—Conditions.**

Fifth, That five per centum of the net proceeds of sales of all public lands lying within said state, which shall be sold by congress after the admission of said state into the Union, after deducting all the expenses incident to the same, shall be paid to said state for the purpose of making public roads and internal improvements, as the legislature shall direct: provided, the foregoing propositions herein offered are on the condition that the said convention which shall form the constitution of said state shall provide, by a clause in said constitution, or an ordinance, irrevocable without the consent of the United States, that said state shall never interfere with the primary disposal of the soil within the same by the United States, or with any regulations congress may find necessary for securing the title in said soil to bona fide purchasers thereof; and that no tax shall be imposed on lands belonging to the United States, and that in no case shall non-resident proprietors be taxed higher than residents.

CONSTITUTION  
OF THE  
STATE OF MINNESOTA.

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5. Excessive bail for crime—Cruel punishments.
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11. \_\_\_\_\_.
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10. Loan of state credit for railroad purposes — Manner of issuing bonds — Pledge of credit of state—Conditions of loan.

## PREAMBLE.

We, the people of the State of Minnesota, grateful to God for our civil and religious liberty, and desiring to perpetuate its blessings, and secure the same to ourselves and our posterity, do ordain and establish this constitution:

## ARTICLE I.

### BILL OF RIGHTS.

#### Section 1. Object of government.

Government is instituted for the security, benefit and protection of the people, in whom all political power is inherent, together with the right to alter, modify or reform such government, whenever the public good may require it.

#### Sec. 2. Rights and privileges of citizens.

No member of this state shall be disfranchised, or deprived of any of the rights or privileges secured to any citizen thereof, unless by the law of the land, or the judgment of his peers. There shall be neither slavery nor in-

Art 1 §2  
69-M - 210  
77-NW 975

Minn.'Constit.

Const.  
Art 1 §2  
74-M - 522

Art. 1

Const.  
Art 1 §1  
55-M . 549

Const.  
Art 1 §2  
63-M - 386  
65-NW 652  
67-NW 997

Const.  
Art 1 §2

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voluntary servitude in the state, otherwise than in the punishment of crime whereof the party shall have been duly convicted.

"Law of the land" or "due process of law," defined. *Baker v. Kelley*, 11 Minn. 480, (Gil. 358); *Beaupre v. Hoerr*, 13 Minn. 366, (Gil. 339); *State v. Becht*, 23 Minn. 411.

Public officers and their emoluments are not among the "rights and privileges" protected. *Commissioners Hennepin Co. v. Jones*, 18 Minn. 199, (Gil. 182.)

Gen. St. c. 66, § 311 (§ 5460, post), concerning the liability of property to execution for the purchase price, is constitutional. *Rogers v. Brackett*, 34 Minn. 279, 25 N. W. Rep. 601.

Gen. St. c. 34, § 56 (§ 2694, post), allowing double costs against railroad companies in stock-killing cases, is constitutional. *Johnson v. Chicago, M. & St. P. Ry. Co.*, 29 Minn. 425, 13 N. W. Rep. 673; *Schimmele v. Chicago, M. & St. P. Ry. Co.*, 34 Minn. 216, 25 N. W. Rep. 347.

Laws 1887, c. 13 (§ 2701, post), making railroad companies liable to their employees for injuries resulting from the negligence of co-employees, is constitutional. *Lavallee v. St. Paul, M. & M. Ry. Co.*, 40 Minn. 249, 41 N. W. Rep. 974; *Bucklew v. Central Iowa Ry. Co.*, (Iowa,) 21 N. W. Rep. 103.

Special and exclusive privileges, see *Graffty v. City*, (Ind.) 8 N. E. Rep. 609; *Nash v. Lathrop*, (Mass.) 6 N. E. Rep. 559; *Des Moines St. Ry. Co. v. Des Moines Broad-Gauge St. Ry. Co.*, (Iowa,) 33 N. W. Rep. 610.

As to "involuntary servitude," see *State v. West*, 42 Minn. 147, 153, 43 N. W. Rep. 845.

See note to § 7, post.

## Sec. 3. Liberty of the press.

The liberty of the press shall forever remain inviolate, and all persons may freely speak, write and publish their sentiments on all subjects, being responsible for the abuse of such right.

Art 1 §3  
72-NW 06

## Sec. 4. Right of trial by jury.

The right of trial by jury shall remain inviolate, and shall extend to all cases at law without regard to the amount in controversy, but a jury trial may be waived by the parties in all cases, in the manner prescribed by law.

Art 1 §4  
67-NW 71  
68-NW 53  
68-NW 105

[And the legislature may provide that the agreement of five-sixths of any jury in any civil action or proceeding, after not less than six hours' deliberation, shall be a sufficient verdict therein.]\*

Art 1 §4  
67-NW 71  
68-NW 53

\* The paragraph in brackets was adopted November 4, 1890.

This section simply adopts the law as it existed at the time of the adoption of the constitution, and does not operate to extend the right of trial by jury to cases where it did not before exist. *Whallon v. Bancroft*, 4 Minn. 109, (Gil. 70); *S. P., Ewing v. Filley*, 43 Pa. St. 384. It does not extend to and include proceedings by *mandamus*, *State v. Sherwood*, 15 Minn. 221, (Gil. 172); *State v. City of Lake City*, 25 Minn. 404, 427; nor to proceedings to condemn private property for public use under the exercise of the right of eminent domain, *Ames v. Lake Superior & M. R. Co.*, 21 Minn. 241, 293. See cases cited in 22 Minn. 180. Nor to proceedings for the assessment and collection of taxes, *Commissioners of Mille Lacs Co. v. Morrison*, 22 Minn. 178, 181; nor to proceedings to punish contempts, *State v. Becht*, 23 Minn. 411; nor to proceedings for laying out highways, under Gen. St. c. 13, §§ 33-43, as amended by Laws 1867, c. 30, § 4, and Laws 1868, c. 48, § 2, *Bruggerman v. True*, 25 Minn. 123, 126; nor to an action involving the adjustment and settlement of mutual accounts growing out of a common transaction between the parties, *Garner v. Reis*, 25 Minn. 475, 477; but does extend to an action brought to recover the value of certain wheat alleged to have been delivered by the bailee in excess of the quantity deposited with plaintiff by defendant, though involving a long account, *St. Paul & S. C. R. Co. v. Gardner*, 19 Minn. 132, (Gil. 99.)

Art 1 §4  
64-M - 312  
77-NW 424

Art 1 §4  
74-M - 522  
79-M - 352

The omission by defendant, in a civil action before a justice of the peace, to demand a jury, is a waiver of the right. An express waiver entered on the justice's minutes is unnecessary. *Gibbens v. Thompson*, 21 Minn. 400.

The parties to an election contest have no right to a trial by jury, in the district court. *Newton v. Newell*, 26 Minn. 529, 6 N. W. Rep. 346.

The statute making a resident or tax-payer of a city a competent juror in suits to which it is a party, does not impair the right of trial by jury. *McClure v. City of Red Wing*, 28 Minn. 188, 9 N. W. Rep. 707.

An act establishing a municipal court may provide for the trial of causes involving merely the violation of municipal ordinances, in a summary manner, without a jury. *City of Mankato v. Arnold*, 36 Minn. 62, 30 N. W. Rep. 305.

See *State v. West*, 42 Minn. 147, 43 N. W. Rep. 845; *State v. Harris*, 50 Minn. 128, 52 N. W. Rep. 387; *State v. Brown*, 50 Minn. 353, 52 N. W. Rep. 935.

Right of jury trial in prosecutions for violation of laws relating to the sale of in-



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toxicating liquors, see *Littleton v. Fritz*, (Iowa,) 22 N. W. Rep. 641; *State v. Schmitz*, Id. 673.

In involuntary proceedings in insolvency, the debtor is not entitled to a jury trial. *In re Howes*, 38 Minn. 403, 38 N. W. Rep. 104.

This section does not apply to proceedings upon information in the nature of *quo warranto*. *State v. Minnesota Thresher Manuf'g Co.*, 40 Minn. 213, 41 N. W. Rep. 1020.

In an action to determine adverse claims to real estate, and to cancel deeds, the plaintiff is not entitled to jury trial. *Roussain v. Patten*, 46 Minn. 303, 48 N. W. Rep. 1122.

In an appeal to the district court from an order of the probate court admitting a will to probate, a party has not a right to a jury trial of the issue of the validity of the will. *Schmidt v. Schmidt*, 47 Minn. 451, 50 N. W. Rep. 593.

See note to § 6, post.

Art 1 §5

69-M - 509

69-M - 520

Art 1 §5

73-M - 79

## Sec. 5. Excessive bail for crime—Cruel punishments:

Excessive bail shall not be required, nor shall excessive fines be imposed, nor shall cruel or unusual punishments be inflicted.

This section does not prohibit the delegation to the jury of the power to fix the punishment in a capital case. *State v. Lautenschlager*, 22 Minn. 514, 524.

## Sec. 6. Criminal prosecutions—Rights of accused.

In all criminal prosecutions the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the county or district wherein the crime shall have been committed, which county or district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation, to be confronted with the witnesses against him, to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel in his defence:

An act changing the place of holding court in the district, but not changing the district, is not in conflict with this section, *State v. Gut*, 13 Minn. 341, (Gil. 315;); *State v. Robinson*, 14 Minn. 447, (Gil. 333;); and a change, on the application of the state, from a county in one judicial district to an adjoining county in another district (Gen. St. c. 113) is not unconstitutional, *State v. Miller*, 15 Minn. 344, (Gil. 277.)

The right of the accused to be present when the witnesses testify before the jury may be waived by him, at least when counsel are present for him. *State v. Reckerds*, 21 Minn. 47, 50.

As to the right to a jury trial in proceedings to punish contempts, see *State v. Becht*, 23 Minn. 411; meaning of "jury of the county," *State v. Kemp*, 34 Minn. 61, 24 N. W. Rep. 349. A jury required to be selected from a list of inhabitants of a city within the county, is a "jury of the county." Id. The jury called for is a body of twelve men, and this applies to prosecutions in justices' courts, if the defendant demands such a jury. *State v. Everett*, 14 Minn. 439, (Gil. 330.)

The accused is "informed of the nature and cause of the accusation," in a perjury case, by an indictment following form No. 24, Gen. St. c. 103, § 2 (§ 7239, post). *State v. Thomas*, 19 Minn. 484, (Gil. 418.)

A criminal trial before eleven jurors, with the defendant's consent, is not unconstitutional. *State v. Sackett*, 39 Minn. 69, 38 N. W. Rep. 773.

The defendant in a criminal case, in the municipal court of Minneapolis (which has jurisdiction only of offenses cognizable before a justice of the peace), may consent to trial by the court. *State v. Woodling*, 53 Minn. 142, 54 N. W. Rep. 1068.

See, also, *State v. Bannock*, 53 Minn. 419, 55 N. W. Rep. 553.

As to the right to a speedy trial, see *People v. Schufelt*, (Mich.) 28 N. W. Rep. 79.

As to the right of the accused to be confronted by witnesses, see *State v. Matlock*, (Iowa,) 30 N. W. Rep. 493; *Williams v. State*, (Wis.) 21 N. W. Rep. 56; *Hair v. State*, (Neb.) Id. 464; *People v. Dow*, (Mich.) 31 N. W. Rep. 597.

## Sec. 7. Same.

No person shall be held to answer for a criminal offence unless on the presentment or indictment of a grand jury, except in cases of impeachment or in cases cognizable by justices of the peace, or arising in the army or navy, or in the militia when in actual service in time of war or public danger, and no person for the same offence shall be put twice in jeopardy of punishment, nor shall be compelled in any criminal case to be witness against himself, nor be deprived of life, liberty, or property, without due process of law. All persons shall before conviction be bailable by sufficient sureties, except for capital offences, when the proof is evident or the presumption great; and

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the privilege of the writ of habeas corpus shall not be suspended, unless when, in case of rebellion or invasion, the public safety may require.

A judgment of acquittal in a *qui tam* action for a penalty, is not appealable, jeopardy having once attached. *Kennedy v. Raught*, 6 Minn. 235, (Gil. 155.)

It is a violation of this section to require an accused person to appear and be sworn and examined before the grand jury; and an indictment so found will be set aside. *State v. Froiseth*, 16 Minn. 296, (Gil. 260.)

A city ordinance, empowering city councilmen and fire-wardens to arrest persons at fires, and detain them until the extinguishment of the fire, for disobedience of orders, is repugnant to this section and § 4, *supra*. *Judson v. Reardon*, 16 Minn. 431, (Gil. 387.)

The fact that a contempt is a misdemeanor, and punishable by indictment, does not render unconstitutional a statute authorizing summary proceedings therefor before the court. *State v. District Court First Judicial District*, 52 Minn. 283, 53 N. W. Rep. 1157.

Laws 1868, c. 73; allowing an appeal "from a judgment heretofore or hereafter rendered, within one year after entry thereof," is, as to final judgments, the time to appeal from which had expired before its passage, repugnant to this section and to § 2, *supra*. *Beaupre v. Hoerr*, 13 Minn. 366, (Gil. 339.)

The statute relating to bastardy—Gen. St. c. 17, § 7 (§ 2045, post)—is not repugnant to this section. *State v. Becht*, 23 Minn. 1.

Commitment for contempt, in disobeying an order to deliver property to a receiver in supplementary proceedings, is not a deprivation of liberty without "due process of law." *State v. Becht*, 23 Minn. 411.

The provision of Laws 1877, c. 131 (§ 5434, post), "that in all cases where judgment heretofore has been, or hereafter may be, obtained in any court of record by means of the perjury, subornation of perjury, or any fraudulent act, practice, or representation of the prevailing party, an action may be brought by the party aggrieved to set aside said judgment at any time within three years after the discovery by him of such perjury, subornation of perjury, or of the facts constituting such fraudulent act, practice, or representation," so far as respects a judgment which had become absolute and not subject to be set aside, reversed, or modified, prior to the passage of the act, is void, as operating to deprive the judgment creditor of his property without due process of law. *Wieland v. Shillock*, 24 Minn. 345, 349.

The legislature cannot give a mechanic's lien on property without the owner's consent; but where the statute gives such lien to a subcontractor, etc., the making of the principal contract by the owner is evidence of consent to such lien. *O'Neil v. St. Olaf's School*, 26 Minn. 329, 4 N. W. Rep. 47. A statute giving a lien to subcontractors, is constitutional. *Bohn v. McCarthy*, 29 Minn. 23, 11 N. W. Rep. 127; *Laird v. Moonan*, 32 Minn. 358, 20 N. W. Rep. 354.

The provisions of Laws 1887, c. 170 (Mechanic's Lien Act), making failure by the owner to enjoin the erection of a building conclusive evidence of his consent, and making title under sale on the lien superior to prior titles and incumbrances, held unconstitutional. *Meyer v. Berlandi*, 39 Minn. 438, 40 N. W. Rep. 513.

Laws 1889, c. 200 (§ 6329 et seq., post), held constitutional against objection that it authorized liens for subcontractors. *Bardwell v. Mann*, 46 Minn. 285, 48 N. W. Rep. 1120.

A senior creditor's right to redeem from a mortgage sale, when once vested, cannot be divested without due process of law. *Willis v. Jelineck*, 27 Minn. 18, 6 N. W. Rep. 373.

The legislature may empower cities to pass ordinances punishing acts (in this case the keeping of a house of ill-fame) which are indictable offenses under the statutes of the state. *State v. Lee*, 29 Minn. 445, 13 N. W. Rep. 913.

Violation of city ordinances punishable by fine or imprisonment, are "criminal offenses"; and, where the prescribed punishment may exceed three months' imprisonment or \$100 fine, a municipal court has no jurisdiction. *State v. West*, 42 Minn. 147, 43 N. W. Rep. 845.

The insolvent law of 1881 (§ 4240 et seq., post) is not unconstitutional, in providing that claims are to be passed on by the receiver, his decision being reviewable by the district court. *Weston v. Loyhed*, 30 Minn. 221, 14 N. W. Rep. 892. The insolvent law of 1881 is valid, as against the objections that a receiver may be appointed on grounds not inconsistent with the debtor's solvency; that a creditor, in order to share in the estate, must file a release of his debt; and that the creditor is not given a jury trial on the question whether, by reason of the alleged fraud of the debtor, the estate shall be distributed among the creditors without their filing releases; and that it is inoperative as against citizens of other states. *Wendell v. Lebon*, 30 Minn. 234, 15 N. W. Rep. 109.

A law increasing the interest on taxes refunded from one per cent. to ten per cent. per annum, payable out of the county treasury, is invalid so far as it is retroactive. Power of the legislature over property acquired by a county for its own use. The legislature cannot compel taxation for a private purpose. *State v. Foley*, 30 Minn. 350, 15 N. W. Rep. 375.

Laws 1883, c. 125, regulating the practice of medicine, and prohibiting practice by any one not having a certificate from the state examining board, and authorizing a refusal of certificate for "dishonorable or unprofessional" conduct, held valid. *State*

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v. Medical Examining Board, 32 Minn. 324, 20 N. W. Rep. 238. As to the rights of an applicant for a certificate, see *Id.*

Laws 1887, c. 9 (§ 7891 et seq., post), "An act to regulate the practice of medicine \* \* \* and to license physicians, \* \* \*" is constitutional. *State v. Fleischer*, 41 Minn. 69, 42 N. W. Rep. 636.

Laws 1885, c. 147 (§ 7922 et seq., post), regulating the practice of pharmacy, is valid. *State v. Donaldson*, 41 Minn. 74, 42 N. W. Rep. 781.

Laws 1889, c. 19 (§ 7906 et seq., post), regulating the practice of dentistry, is constitutional. *State v. Vandersluis*, 42 Minn. 129, 43 N. W. Rep. 739.

The business of employment agencies is a proper subject for police regulation. *Moore v. City of Minneapolis*, 43 Minn. 418, 45 N. W. Rep. 719.

The provision of Laws 1889, c. 7, §§ 1, 2 (§§ 7010, 7011, et seq., post), requiring baking powder containing alum to be so marked as to show that fact, is constitutional. *Stolz v. Thompson*, 44 Minn. 271, 46 N. W. Rep. 410.

See *State v. Aslesen*, 50 Minn. 5, 52 N. W. Rep. 220; *Weideman v. State* (Minn.) 56 N. W. Rep. 638.

Laws 1889, c. 246 (§ 444 et seq., post), providing for the inspection of illuminating oils in tank cars, is a bona fide police regulation. *Willis v. Standard Oil Co.*, 50 Minn. 290, 52 N. W. Rep. 652.

Laws 1881, c. 5, § 1 (§ 1631, post), providing for an assessment of taxes omitted in prior years, held not to authorize the taking of property without "due process of law," as the owner may contest the tax in judicial proceedings for its enforcement. *County of Redwood v. Winona & St. P. Land Co.*, 40 Minn. 512, 41 N. W. Rep. 465.

Service by publication on resident defendants who can be found within the state in personal actions is not due process of law. *G. S. 1878, c. 81, § 23* (§ 6053, post), providing for such service, is unconstitutional. *Bardwell v. Collins*, 44 Minn. 97, 46 N. W. Rep. 315.

Laws 1885, c. 50 (now repealed), so far as it assumed to make ex parte decrees of heirship more than prima facie evidence of heirship, was invalid. *Irwin v. Fierro*, 44 Minn. 490, 47 N. W. Rep. 154.

Laws 1881, Ex. S. c. 81 (§ 5818, post), providing for the service of process by publication on unknown claimants in actions to determine adverse claims to land, held constitutional. *Shepherd v. Ware*, 46 Minn. 174, 48 N. W. Rep. 713.

*G. S. 1878, c. 15, § 14* (§ 1964, post), providing for removal of paupers from one county to another, held not invalid as authorizing an interference with the right of personal liberty "without due process of law." *Lovell v. Seebach*, 45 Minn. 465, 45 N. W. Rep. 23.

Laws 1889, c. 190 (§§ 5851, 5852, post), amending the occupying claimant's law, held invalid so far as it is made to apply retroactively to a case where the plaintiff had failed to pay the value of the improvements within one year from the rendition of the verdict, such failure to pay having vested title in the adverse holder. *Craig v. Dunn*, 47 Minn. 59, 49 N. W. Rep. 396.

*G. S. 1878, c. 13, § 47* (§ 1832, post), providing that where a road has been used and worked for six years it shall be deemed to have been dedicated to the public, is valid. *Miller v. Town of Corinna*, 42 Minn. 391, 44 N. W. Rep. 127.

See *Stapp v. The Clyde*, 43 Minn. 192, 45 N. W. Rep. 430; *Id.*, 44 Minn. 510, 47 N. W. Rep. 160.

The right of redemption existing at the time of a tax sale cannot be enlarged or abridged by subsequent legislation. *Merrill v. Dearing*, 32 Minn. 479, 21 N. W. Rep. 721.

Proviso in *Gen. St. 1878, c. 46, § 3*, limiting time for selling land of a decedent to pay debts, held constitutional. *In re Ackerman*, 33 Minn. 54, 21 N. W. Rep. 852.

A special law, fixing the compensation to be paid by the defendant to the surveyor general for scaling logs coming within its boom at a less rate than that payable under the general law, is not unconstitutional, as partial or unequal. *Merritt v. Knife Falls Boom Corp.*, 34 Minn. 245, 25 N. W. Rep. 403.

*Gen. St. 1878, c. 34, § 56* (§ 2694, post), giving extra costs in actions against railway companies which have failed to maintain fences, is not unconstitutional, as being unequal or partial. *Johnson v. Chicago, M. & St. P. Ry. Co.*, 29 Minn. 425, 13 N. W. Rep. 673; *Schimmele v. Chicago, M. & St. P. Ry. Co.*, 34 Minn. 216, 25 N. W. Rep. 347.

Laws 1887, c. 191 (see §§ 5417, 5418, post), "An act to regulate actions for libel," is not invalid as unequal or partial legislation because it applies only to publishers of newspapers. *Allen v. Pioneer Press Co.*, 40 Minn. 117, 41 N. W. Rep. 936.

See *Cobb v. Bord*, 40 Minn. 479, 42 N. W. Rep. 396. As to unequal and partial legislation, see notes to art. 4, §§ 33, 34, post.

The making and enforcing of regulations as to the keeping of dogs, is within the police power. *City of Faribault v. Wilson*, 34 Minn. 254, 25 N. W. Rep. 449.

An ordinance restricting the sale of intoxicating liquor to districts to be designated by the mayor is unconstitutional. *State v. Kantler*, 33 Minn. 69, 21 N. W. Rep. 856.

The provision that "all persons shall, before conviction, be bailable," does not affect the power of the court to admit to bail, in its discretion, after conviction. *State v. Levy*, 24 Minn. 362, 363.

"Due process of law" defined. *Davidson v. Farrell*, 8 Minn. 258, (Gil. 225, 229); *Baker v. Kelley*, 11 Minn. 480, (Gil. 358, 375); *Wilson v. Red Wing School-Dist.*, 22 Minn. 483, 491; *State v. Billings*, (Minn.) 57 N. W. Rep. 794.

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Due process of law, property taken for taxes, see *Griswold College v. City, (Iowa)* 22 N. W. Rep. 904; *Auer v. City, Id.* 914.

A statute authorizing the court, in determining that a complaint is malicious, to enter judgment against complainant, is valid. *State v. Smith, (Wis.)* 26 N. W. Rep. 258.

And see, generally, as to "due process of law," *In re McPherson, (N. Y.)* 10 N. E. Rep. 685; *In re McMahon v. Palmer, (N. Y.)* 6 N. E. Rep. 400; *Baltimore & O. & C. R. Co. v. North, (Ind.)* 3 N. E. Rep. 144; *Millet v. People, (Ill.)* 7 N. E. Rep. 631.

In the exercise of the police power, the legislature may compel railroad companies to construct farm crossings. *Illinois Cent. R. Co. v. Willenborg, (Ill.)* 7 N. E. Rep. 698.

A statute requiring the fencing of railroads, and making railroad companies liable for damages resulting from their failure to comply therewith, is valid. *Emmons v. Minneapolis & St. L. Ry. Co.,* 35 Minn. 503, 29 N. W. Rep. 202.

Section 4, c. 149, Gen. Laws 1885, relating to dairy products, is a valid exercise of the police power. *Butler v. Chambers,* 36 Minn. 69, 30 N. W. Rep. 308.

A statute making it a criminal offense to manufacture or sell an article intended as a substitute for butter is unconstitutional. *People v. Marx, (N. Y.)* 2 N. E. Rep. 29.

See, generally, as to police power, *Brechbill v. Randall, (Ind.)* 1 N. E. Rep. 362; *People v. Cipperly, (N. Y.)* 4 N. E. Rep. 107; *Welch v. Bowen, (Ind.)* 2 N. E. Rep. 722; *Eastman v. State, (Ind.)* 10 N. E. Rep. 97; *Martin v. Blattner, (Iowa),* 25 N. W. Rep. 131.

See, also, note to § 2, *ante*, and note to § 11, *post*.

## Sec. 8. Redress of injuries and wrongs.

Every person is entitled to a certain remedy in the laws for all injuries or wrongs which he may receive in his person, property or character; he ought to obtain justice freely and without purchase; completely and without denial; promptly and without delay, conformably to the laws.

An act requiring the payment of an assessment or tax, as a condition precedent to the right to sue to set it aside as illegal, is unconstitutional. *Weller v. City of St. Paul,* 5 Minn. 95, (Gil. 70.)

The act of February 14, 1862, suspending the privileges of persons aiding in the Rebellion of prosecuting and defending actions and judicial proceedings, conflicts with this section. *Davis v. Pierse,* 7 Minn. 13, (Gil. 1.); *Keough v. McNitt,* 7 Minn. 30, (Gil. 16.); *McFarland v. Butler,* 8 Minn. 116, (Gil. 91.); *Jackson v. Butler, Id.* 117, (Gil. 92.)

A statute (other than an act of limitation) which bars a claimant of land of his rights therein, unless he brings a specified action within a given time, or does some other act to satisfy the statute, (Laws 1862, c. 4, § 7,) is unconstitutional. *Baker v. Kelley,* 11 Minn. 480, (Gil. 358.)

The proviso in Gen. St. c. 11, § 154, as amended by Laws 1869, c. 23, that, in all actions brought against any county to test the validity of a forfeiture of land for non-payment of taxes, the plaintiffs shall pay the costs, is not repugnant to that clause of this section declaring that any person "ought to obtain justice freely and without purchase." *Willard v. Commissioners of Redwood Co.,* 22 Minn. 61, 64.

The remedy by distress for rent is not a violation of this section, because the tenant is required to give security in order to replevy the property distrained. *Dutcher v. Culver,* 24 Minn. 584, 590.

Laws 1887, c. 191 (§§ 5417, 5418, *post*), "An act to regulate actions for libel," is not invalid on the ground that it deprives a person of "a certain remedy" for injuries to his reputation. *Allen v. Pioneer Press Co.,* 40 Minn. 117, 41 N. W. Rep. 936.

A statute requiring, as a condition precedent for probate proceedings, the payment of specified sums arbitrarily prescribed with reference to the value of the estates, is repugnant to this section. *State v. Gorman,* 40 Minn. 232, 41 N. W. Rep. 948.

## Sec. 9. Treason against the state.

Treason against the state shall consist only in levying war against the same, or in adhering to its enemies, giving them aid and comfort. No person shall be convicted of treason unless on the testimony of two witnesses to the same overt act, or on confession in open court.

## Sec. 10. Unreasonable searches and seizures—Search warrants.

The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures shall not be violated, and no warrant shall issue but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the person or things to be seized.

See *Olson v. Toete,* 46 Minn. 225, 45 N. W. Rep. 914.

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**Sec. 11. Ex post facto laws—Laws impairing contracts prohibited.**

No bill of attainder, ex post facto law, nor any law impairing the obligation of contracts shall ever be passed, and no conviction shall work corruption of blood or forfeiture of estate.

**EX POST FACTO AND RETROACTIVE ACTS.** A statute (Gen. St. 1866, c. 73, § 89, post, § 5762) changing the rule requiring direct evidence of both marriages in bigamy cases, and permitting indirect evidence thereof, is *ex post facto* as respects offenses alleged to have been committed prior to its passage. *State v. Johnson*, 12 Minn. 476, (Gil. 378.)

A statute increasing the number of the state's peremptory challenges on future criminal trials is not *ex post facto*, even as to offenses alleged to have been previously committed. *State v. Ryan*, 13 Minn. 370, (Gil. 343.)

Where the punishment for an offense prescribed by statute at the time of its commission is imprisonment only, the offender cannot be convicted and punished for such offense under a subsequent amendatory act prescribing fine or imprisonment. *State v. McDonald*, 20 Minn. 136, (Gil. 119.)

There is no constitutional limitation upon the power of the legislature over the subject of criminal punishment, except those prescribed in this section and § 5, *supra*. *State v. Lautenschlager*, 22 Minn. 514.

See, further, *Coles v. County of Washington*, 35 Minn. 124, 27 N. W. Rep. 497; *Atkins v. Atkins*, (Neb.) 25 N. W. Rep. 724; *Marion v. State*, (Neb.) 29 N. W. Rep. 911; *County of Logan v. People*, (Ill.) 6 N. E. Rep. 475; *Stokes v. Riley*, (Ill.) 9 N. E. Rep. 69; *Powell v. City of Madison*, (Ind.) 8 N. E. Rep. 31; *Johnson v. County of Wells*, Id. 1; *McLane v. Bonn*, (Iowa,) 30 N. W. Rep. 478; followed *Craig v. Florange*, 32 N. W. Rep. 356.

G. S. 1878, c. 11, § 97, as amended by Laws 1881, c. 10, § 19, (§ 1610, post,) relating to recovery of purchase money on void tax sales, held valid, in its retroactive operation. *Schoonover v. Galarnault*, 45 Minn. 174, 47 N. W. Rep. 654.

**LAWS IMPAIRING THE OBLIGATION OF CONTRACTS.** The wife's contingent right of dower is subject to legislative control, and may be modified or taken away. *Morrison v. Rice*, 35 Minn. 436, 29 N. W. Rep. 168.

The legislature may legalize a married woman's deed executed without her husband's concurrence, and may take away his inchoate right in the land. *Wistar v. Foster*, 46 Minn. 484, 49 N. W. Rep. 247.

The obligation of an antenuptial contract cannot be impaired, nor the rights of the parties thereunder affected, by subsequent legislation. *Desnoyer v. Jordan*, 27 Minn. 290, 7 N. W. Rep. 140.

The right of a chattel mortgagee, under a clause authorizing him to take possession in case he shall at any time deem himself insecure, is not to be impaired by subsequent legislation, such as Laws 1879, c. 65, § 2 (§ 4145, post), forbidding him to exercise the right without just cause. *Boice v. Boice*, 27 Minn. 371, 7 N. W. Rep. 687.

The right to foreclose under a power of sale, pursuant to statute in force at the time of the execution of a mortgage, cannot be taken away by subsequent legislation. *O'Brien v. Krenz*, 36 Minn. 130, 30 N. W. Rep. 458.

As to the extent to which the execution of powers of sale in mortgages may be controlled by subsequent legislation. *Webb v. Lewis*, 45 Minn. 285, 47 N. W. Rep. 803.

G. S. 1878, c. 81, § 13 (§ 6041, post), in so far as it increases the amount to be paid on redemption from foreclosure of mortgages executed before its passage, imposing a greater rate of interest than that required by the law in force when such mortgages were made, impairs their obligation, and is void. *Hillebert v. Porter*, 28 Minn. 496, 11 N. W. Rep. 84.

The exemption law of August 12, 1858, though intended to operate upon debts contracted prior to its passage, affects the remedy only, and is not unconstitutional. *Grimes v. Byrne*, 2 Minn. 89, (Gil. 72.)

Where three years have expired since decedent's death, a devise becomes vested, and does not become charged with liens by the subsequent repeal of the proviso to Gen. St. 1878, c. 46, § 3, that claims shall not be a lien after the expiration of such period. The rights of the devisee, in such case, cannot be taken away or impaired by legislative enactment. *Gates v. Shugrue*, 35 Minn. 392, 29 N. W. Rep. 57.

The right of the state, in the exercise of its police power, to require a railroad company to fence its road, is not impaired by a clause in the company's charter providing what fences the company shall maintain and when it shall provide them. *Gillam v. Sioux City & St. P. R. Co.*, 26 Minn. 268, 3 N. W. Rep. 353. If, in any case, the legislature can bind the state not to exercise its police power, its intention to do so must be clearly expressed, and cannot be implied. *Id.*

After granting lands to the Northern Pacific Railroad Company, congress could not, by a subsequent act, require the company to pay the cost of surveys as a condition of obtaining patents. *County of Cass v. Morrison*, 28 Minn. 257, 9 N. W. Rep. 761.

Certain exemptions from taxation, in favor of railroad companies, held to be a con-

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tract, and not modified by an act of the legislature until the modification was accepted. See *In re County of Stevens*, 36 Minn. 467, 31 N. W. Rep. 942.

Legislative amendment of the charter of a private corporation, to be valid, must be accepted by the corporation. *Mower v. Staples*, 32 Minn. 284, 20 N. W. Rep. 225. See, also, *Peoria, D. & E. R. Co. v. People*, (Ill.) 6 N. E. Rep. 497.

Repeal of grant of ferry franchise, for failure to perform the duties imposed, and in the exercise of a reserved power, may be made without a judicial determination of the failure. But whether the grantee has failed, so that the repeal was effectual, is a question for the courts. *Myrick v. Brawley*, 33 Minn. 377, 23 N. W. Rep. 549.

The nature of the obligation of the executory contracts of states, and the remedy to enforce them, discussed. *State v. Young*, 29 Minn. 474, 9 N. W. Rep. 737.

Rights of purchasers of lands sold for taxes protected from subsequent legislation. *State v. McDonald*, 26 Minn. 145, 1 N. W. Rep. 832.

The right of a purchaser at a tax sale, which is declared void, to a return of his purchase money, and subsequent taxes paid, with interest, (under Gen. St. 1866, c. 11, § 155,) could not be impaired by legislation subsequent to the purchase. *Fleming v. Roverud*, 30 Minn. 273, 15 N. W. Rep. 119. Such purchase is a contract with the state, the terms of which are embodied in the law then in force. *Id.*; *State v. Foley*, 30 Minn. 350, 15 N. W. Rep. 375. See, further, as to contracts with the state, *Dermott v. State*, (N. Y.) 1 N. E. Rep. 242.

A statute providing that a judgment against a railroad company, for injury to person or property, shall be a lien, within the county where recovered, superior to any mortgage, or trust deed executed since July 4, 1862, is not unconstitutional. *Central Trust Co. v. Sloan*, (Iowa,) 22 N. W. Rep. 916.

Gen. St. 1878, §§ 16, 17, and Laws 1885, c. 81, (see p. 1693, footnote 2, post.) under which a lien for the keeping of horses has precedence over a prior chattel mortgage, is constitutional. *Smith v. Stevens*, 36 Minn. 303, 31 N. W. Rep. 55.

Laws 1839, c. 30, § 1, amending the insolvent law of 1831 (§ 4240, et seq., post), providing that the release of the debtor shall not operate to discharge any party liable as surety, etc., is not unconstitutional as applied to cases where the liability of a stockholder for the debts of the insolvent corporation was incurred before, but the insolvency proceedings were had and the corporation discharged subsequent to, its passage. *Willis v. Mabon*, 48 Minn. 140, 50 N. W. Rep. 1110.

As to the validity of a statute allowing a set-off, in relation to vested rights, see *Shoe & Leather Nat. Bank v. Wood*, (Mass.) 8 N. E. Rep. 753.

See, further, as to laws impairing the obligation of contracts and vested rights, *De Graff v. St. Paul & P. R. Co.*, 23 Minn. 144; *Attorney General v. Fitchburg R. Co.*, (Mass.) 6 N. E. Rep. 854; *Bryson v. McCrary*, (Ind.) 1 N. E. Rep. 55; *Edwards v. Johnson*, (Ind.) 5 N. E. Rep. 716; *Daniells v. Watertown*, (Mich.) 28 N. W. Rep. 673, and authorities cited in note to § 7, *supra*.

## Sec. 12. Imprisonment for debt—Exemption of property from execution.

No person shall be imprisoned for debt in this state, but this shall not prevent the legislature from providing for imprisonment, or holding to bail persons charged with fraud in contracting said debt. A reasonable amount of property shall be exempt from seizure or sale, for the payment of any debt or liability; the amount of such exemption shall be determined by law.

[*Provided, however*, that all property so exempted shall be liable to seizure and sale for any debts incurred to any person for work done or materials furnished in the construction, repair, or improvement of the same: and *provided, further*, that such liability to seizure and sale shall also extend to all real property for any debt incurred to any laborer or servant for labor or service performed.] \*

\* This proviso was adopted November 6, 1883.

The bastardy act—G. S. 1878, c. 17, § 7 (§ 2045, post)—is not repugnant to this provision, as inflicting imprisonment for debt. *State v. Becht*, 23 Minn. 1.

Imprisonment for contempt is not imprisonment for debt. *State v. Becht*, 23 Minn. 411.

G. S. 1878, c. 124, § 23 (§ 7999, post), punishing frauds on hotel-keepers, is not unconstitutional as an attempt to imprison for debt. *State v. Benson*, 28 Minn. 424, 10 N. W. Rep. 471.

No property can be claimed as exempt until the legislature shall determine to what property, and to what amount the exemption shall extend. *Kelly v. Dill*, 23 Minn. 435. The exemption of property from sale on execution is an exemption from all liabilities. *Tuttle v. Strout*, 7 Minn. 465 (Gil. 374). G. S. 1878, c. 66, § 311 (§ 5460, post), providing that exempt personal property shall not be exempt in actions for purchase

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money, is constitutional. *Rogers v. Brackett*, 34 Minn. 279, 25 N. W. Rep. 601. While the legislature may provide for the exemption of a reasonable amount of property, it cannot discriminate between different classes of creditors or debts. *Coleman v. Ballandi*, 22 Minn. 144.

In creating the homestead exemption, the legislation need not impose any particular condition or mode of occupancy. Thus the fact that a part of the land on which a party's dwelling-house stands is used for other purposes, does not affect the right to claim the whole lot as exempt. *Kelly v. Baker*, 10 Minn. 154, (Gil. 124.) A homestead law, which measures the homestead by area, and not by value, is valid. *Cogel v. Mickow*, 11 Minn. 475, (Gil. 354.); *Barton v. Drake*, 21 Minn. 299.

An act making homesteads subject to mechanics' liens is unconstitutional. *Meyer v. Berlandi*, 39 Minn. 438, 40 N. W. Rep. 513.

Laws 1887, c. 170 (Mechanic's Lien Act, since repealed), § 3, making it felony for a contractor to fail to pay his men, violates this section, as inflicting imprisonment for debt. *Id.*

An order punishing, by imprisonment for contempt, an assignor in insolvency for refusing to turn over money to the assignee, does not violate this section. *Burt v. Minneapolis Stock-Yards & Packing Co.* (Minn.) 57 N. W. Rep. 940.

## Sec. 13. Private property for public use.

Private property shall not be taken for public use without just compensation therefor, first paid or secured.

The state cannot divest itself of the power of exercising the right of eminent domain. *Village of Hyde Park v. Cemetery Ass'n*, (Ill.) 7 N. E. Rep. 627.

The legislature may, by a general law, authorize a railroad company to construct its road in such places as it may see fit, and for such purpose to exercise the right of eminent domain. *Weir v. St. Paul, S. & T. F. R. Co.*, 18 Minn. 155, (Gil. 139.)

What trespasses upon real property constitute a "taking," see *Weaver v. Mississippi & Rum River Boom Co.*, 23 Minn. 534, 11 N. W. Rep. 113. Certain trespasses upon real property occurring at intervals of a year or two, held a "taking" of the property for public use. *McKenzie v. Mississippi & Rum River Boom Co.*, 29 Minn. 288, 13 N. W. Rep. 123.

Gen. St. 1878, c. 31, relating to "dams and mills," is constitutional, the "taking" thereunder being for a public use. *Miller v. Troost*, 14 Minn. 365, (Gil. 282.)

Forcing payment of a license fee as a condition of doing business is not a taking of private property for public use. *City of Rochester v. Upman*, 19 Minn. 108, (Gil. 78.)

Sp. Laws 1879, c. 226, legalizing an existing highway, and requiring land-owners to present claims for compensation within a limited time or be barred, held public, (though published only among the special laws,) and constitutional. *State v. Messenger*, 27 Minn. 119, 6 N. W. Rep. 457, followed. *State v. Bruggerman*, 31 Minn. 493, 18 N. W. Rep. 454.

An act providing for the exercise of the power of eminent domain need not require as a condition precedent an attempt to obtain the voluntary consent of the owner. *In re Opening First Street*, (Mich.) 26 N. W. Rep. 159.

What is a "securing" of the compensation, see *Gray v. First Div. St. P. & P. R. Co.*, 13 Minn. 315, (Gil. 289, 295.)

As to the sufficiency and effect of a tender of the compensation, see *Scott v. St. Paul & C. Ry. Co.*, 21 Minn. 322.

The provisions of Gen. St. 1878, c. 13, § 1 (§ 1775, post), for laying out roads by town supervisors, are constitutional, since the damages are to be paid by the town. *Woodruff v. Town of Glendale*, 26 Minn. 78, 1 N. W. Rep. 531.

Where defendant's charter gives it the right to take land before making compensation, the latter provision should be struck out, leaving defendant the right to take; after first making compensation. *Weaver v. Mississippi & Rum River Boom Co.*, 30 Minn. 477, 16 N. W. Rep. 269. A statute authorizing a taking before compensation made is void. *Hursh v. First Div. St. P. & P. R. Co.*, 17 Minn. 439, (Gil. 417.)

See, also, *In re Willis Ave.*, (Mich.) 22 N. W. Rep. 871.

The charter of Minneapolis providing for condemnation of lands for parks, is constitutional, as against the objection that damages are to be assessed by a commission of tax-payers of the city, and that no appeal lies to the supreme court. *City of Minneapolis v. Wilkin*, (1st case,) 30 Minn. 140, 14 N. W. Rep. 581.

As to the rule for ascertaining the value of land taken for railroad purposes, see *Wisona & St. P. R. Co. v. Waldron*, 11 Minn. 515, (Gil. 392.)

An act authorizing the taking of land for a state road, must require notice of proceedings before the commissioners, and provide for the owners of lands to appear. *Langford v. Commissioners Ramsey Co.*, 16 Minn. 375, (Gil. 333.)

Laws 1885, c. 129, providing for taking land for a state park, held constitutional, against objection that damages are estimated at one period, and that actual appropriation is at a later period. *Commissioners of State Park v. Henry*, 33 Minn. 266, 36 N. W. Rep. 874.

Art 1 § 13  
95 ch. 5  
59-NW . 989

Art 1 § 13  
68-NW 860

Art 1 § 13  
66-M - 163  
75-NW1044

Art 1 § 13  
73-M - 128  
74-M - 504  
82-NW1100

Sec. 13 87-M . 151  
89-M . 288

Laws 1887, c. 43, providing for laying out a road by petitioners, held not to authorize taking land before payment, and hence not unconstitutional. *State v. Rapp*, 39 Minn. 45, 88 N. W. Rep. 926.

An act for taking land for parks in a city, and providing a special fund, held unconstitutional, on the ground that the fund was insufficient, and no liability except from the fund was imposed on the city. In re *Lincoln Park*, 44 Minn. 299, 46 N. W. Rep. 355.

It is sufficient if compensation is secured by another statute. *State v. Shardlow*, 43 Minn. 524, 46 N. W. Rep. 74.

The landowner is entitled to be paid in money. A provision requiring commissioners, after making a separate award of compensation and an assessment for benefits, to deduct from such assessment the amount of the award, is unconstitutional. *McKusick v. City of Stillwater*, 44 Minn. 372, 46 N. W. Rep. 769.

The provisions of the charter of St. Paul, as amended by Sp. Laws 1889, c. 32, that if, upon appeal from the board of public works to the district court, the valuation is found inadequate or unfair, a new valuation shall be made by the board, held constitutional. *City of St. Paul v. Nickl*, 42 Minn. 262, 44 N. W. Rep. 59.

At what steps the landowner is entitled to notice and hearing. *Id.*

The legislature is the exclusive judge of the quantity of land and of the estate therein which the public use requires. *Fairchild v. City of St. Paul*, 46 Minn. 540, 49 N. W. Rep. 325.

**Sec. 14. Standing army prohibited.**

The military shall be subordinate to the civil power and no standing army shall be kept up in this state in time of peace.

Art 1 §14  
74-M - 518

**Sec. 15. Lands declared allodial—Leases, when void.**

All lands within this state are declared to be allodial, and feudal tenures of every description, with all their incidents, are prohibited. Leases and grants of agricultural land for a longer period than twenty-one years, hereafter made, in which shall be reserved any rent or service of any kind, shall be void.

The right of distress for rent was not unconstitutional, because it originally existed only as an incident of feudal tenure. *Dutcher v. Culver*, 24 Minn. 584, 617.

A reservation, in an allodial grant of lands not agricultural, of a definite sum to be paid annually for any length of time, whether by way of rent or as a consideration for the grant, does not give such grant a feudal character. *Minneapolis Mill Co. v. Tiffany*, 22 Minn. 463.

A grant of land, with the right to use forever for manufacturing purposes certain water-power on payment of a certain fixed perpetual annual rent, is valid. *Id.*

**Sec. 16. Freedom of religious belief.**

The enumeration of rights in this constitution shall not be construed to deny or impair others retained by and inherent in the people. The right of every man to worship God according to the dictates of his own conscience shall never be infringed, nor shall any man be compelled to attend, erect, or support any place of worship, or to maintain any religious or ecclesiastical ministry against his consent; nor shall any control of, or interference with the rights of conscience be permitted, or any preference be given by law to any religious establishment or mode of worship; but the liberty of conscience hereby secured shall not be so construed as to excuse acts of licentiousness, or justify practices inconsistent with the peace or safety of the state; nor shall any money be drawn from the treasury for the benefit of any religious societies, or religious or theological seminaries.

A city ordinance conformable to the charter prohibiting the sale of liquors on Sunday, and requiring saloons to be closed on that day, and providing penalties for its violation, is not in conflict with this section. *State v. Ludwig*, 21 Minn. 202.

**Sec. 17. No religious test or property qualification.**

No religious test or amount of property shall ever be required as a qualification for any office of public trust under the state. No religious test or amount of property shall ever be required as a qualification of any voter at any election in this state; nor shall any person be rendered incompetent to give evidence in any court of law or equity in consequence of his opinion upon the subject of religion.



ARTICLE II.

NAME AND BOUNDARIES.

**Section 1. Name and boundaries of the state.**

This state shall be called and known by the name of the State of Minnesota, and shall consist of and have jurisdiction over the territory embraced in the following boundaries, to-wit: beginning at the point in the centre of the main channel of the Red River of the north, where the boundary line between the United States and the British possessions crosses the same; thence up the main channel of said river to that of the Bois des Sioux river; thence up the main channel of said river to lake Traverse; thence up the centre of said lake to the southern extremity thereof; thence in a direct line to the head of Big Stone lake; thence through its centre to its outlet; thence by a due south line to the north line of the state of Iowa; thence east along the northern boundary of said state to the main channel of the Mississippi river; thence up the main channel of said river and following the boundary line of the state of Wisconsin, until the same intersects the St. Louis river; thence down the said river to and through lake Superior, on the boundary line of Wisconsin and Michigan, until it intersects the dividing line between the United States and British possessions; thence up Pigeon river and following said dividing line to the place of beginning.

**Sec. 2. Jurisdiction on rivers.**

The state of Minnesota shall have concurrent jurisdiction on the Mississippi, and on all other rivers and waters bordering on the said state of Minnesota, so far as the same shall form a common boundary to said state and any other state or states now or hereafter to be formed by the same; and said rivers and waters, and navigable waters leading into the same, shall be common highways, and forever free, as well to the inhabitants of said state as to other citizens of the United States, without any tax, duty, impost or toll therefor.

Power of legislature to authorize a company to maintain booms and collect boomage in a river navigable only for loose logs. *Osborne v. Knife Falls Boom Corp.*, 32 Minn. 412, 21 N. W. Rep. 704.

**Sec. 3. Acceptance of the propositions contained in enabling act.**

The propositions contained in the act of congress entitled "An Act to authorize the people of the territory of Minnesota to form a constitution and state government preparatory to their admission into the Union on an equal footing with the original states," are hereby accepted, ratified and confirmed; and shall remain irrevocable without the consent of the United States; and it is hereby ordained that this state shall never interfere with the primary disposal of the soil within the same, by the United States, or with any regulations congress may find necessary for securing the title to said soil to bona fide purchasers thereof; and no tax shall be imposed on lands belonging to the United States, and in no case shall non-resident proprietors be taxed higher than residents.

This section expressly prohibits the passage of any law subjecting lands, patented under the homestead act of congress, to levy or sale on execution for any debt created prior to issuance of the patent. *Russell v. Lowth*, 21 Minn. 167.

As to the power and control of the state government over the unsold lands of the United States within the state, see *State v. Bacheider*, 5 Minn. 223. (Gil. 173.)

Art. 2 §2  
63-NW . 100

Art 2 §2  
60-M - 505

Art 2 §3  
69-M - 192

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CONSTITUTION OF THE STATE OF MINNESOTA.

lxxv

## ARTICLE III.

### DISTRIBUTION OF THE POWERS OF GOVERNMENT.

#### Section 1. Into three departments: legislative, executive, and judicial.

The powers of the government shall be divided into three distinct departments, legislative, executive and judicial; and no person or persons belonging to or constituting one of these departments, shall exercise any of the powers properly belonging to either of the others, except in the instances expressly provided in this constitution.

The statute (Comp. St. c. 4, § 15) authorizing either branch of the legislature to call for the opinion of the supreme court, or any one of the judges thereof, upon any subject, is unconstitutional. In re Application of the Senate, 10 Minn. 78, (Gil. 56.)

The judicial and executive departments of the government are independent, and the governor cannot compel the supreme court to give its opinion of an act of the legislature. Rice v. Austin, 19 Minn. 103, (Gil. 74.)

The court will not grant a *mandamus* to compel official action on the part of the governor, Rice v. Austin, *supra*; or on the part of the secretary of state, State v. Dike, 20 Minn. 363, (Gil. 314.) Officers of the executive department are not amenable to the courts, and cannot, even as to ministerial acts, be controlled by *mandamus* or injunction. Western R. Co. v. De Graff, 27 Minn. 1, 6 N. W. Rep. 341.

The exemption of the executive officers from the control of the courts applies to a state auditor, as commissioner of the land-office. State v. Whitcomb, 28 Minn. 50, 8 N. W. Rep. 902. See, further, as to the exemption of officers of executive department from the control of the courts, Secombe v. Kittelson, 29 Minn. 555, 12 N. W. Rep. 519; State v. Braden, 40 Minn. 174, 41 N. W. Rep. 817.

The validity of acts of the executive department may be determined by the courts when in question in cases requiring judicial action. State v. Fidelity & Casualty Ins. Co., 39 Minn. 533, 41 N. W. Rep. 108.

The power of the governor to remove officers is administrative. State v. Hawkins, (Ohio,) 5 N. E. Rep. 228.

Justices of the peace, taking testimony in a contest for a seat in the legislature, are not subject to the courts, and cannot be restrained by prohibition. State v. Peers, 33 Minn. 81, 21 N. W. Rep. 860.

A statute prescribing the manner of constructing a particular bridge, the expense thereof, and the proportions the adjoining towns or counties shall contribute to its cost, is an exercise of legislative, not judicial, power. Guilder v. Town of Dayton, 22 Minn. 366.

Power to incorporate villages is legislative. Laws 1883, c. 73, assuming to delegate the power to the district court, held unconstitutional. State v. Simons, 32 Minn. 540, 21 N. W. Rep. 750.

Laws 1883, c. 125, § 9, authorizing the medical examining board to revoke the certificates of physicians for dishonorable conduct, is not invalid as investing the board with judicial power. State v. State Board of Med. Examiners, 34 Minn. 387, 26 N. W. Rep. 123.

See, further, as to legislative and judicial functions, Board of Education v. Blakewell, (Ill.) 10 N. E. Rep. 378; State v. Johnson, (Ind.) 5 N. E. Rep. 553; Johnson v. County of Wells, (Ind.) 8 N. E. Rep. 1.

The legislature may authorize municipal bonds in aid of railroads, and taxation to provide for the payment of the same. Davidson v. Commissioners Ramsey Co., 18 Minn. 482, (Gil.) 432.

A park act held not unconstitutional because it was left to the city to determine whether it should go into effect. State v. District Court, Hennepin Co., 33 Minn. 235, 22 N. W. Rep. 625. Followed in State v. Ensign (Minn.) 56 N. W. Rep. 1006.

Laws 1887, c. 10, authorizing the railway and warehouse commission to fix railway rates, held constitutional. State v. Chicago, M. & St. P. Ry. Co., 38 Minn. 281, 37 N. W. Rep. 782. But see § 379 et seq., post.

The procedure for refunding to a tax-certificate holder the amount paid by him after the sale has been adjudged void is not judicial. State v. Dressel, 38 Minn. 90, 35 N. W. Rep. 580.

A provision (Laws 1887, c. 170) directing the courts to construe the act so as to give the laborers the full amount of their claims is void as an invasion of the functions of the judiciary. Meyer v. Berlandi, 39 Minn. 438, 40 N. W. Rep. 513.

The county attorney being a quasi officer of the district court, a statute empowering that court to fix his salary is valid. Rockwell v. County of Fillmore, 47 Minn. 219, 49 N. W. Rep. 690.

Art. 3 § 1  
55-M - 547  
63-NW 1113

Art 3 § 1  
68-M - 359  
69-M - 191  
72-NW 66  
75-NW 211

Art 3 § 1  
72-M - 210  
73-M - 231

ARTICLE IV.

LEGISLATIVE DEPARTMENT.

Art 4 §1  
75-NW 211  
75-NW1051

Art 4 §1  
72-M - 210

**\*Section 1. Legislature—How composed—Sessions—Introduction of bills during last days of session.**

The legislature shall consist of the senate and house of representatives, which shall meet biennially at the seat of government of the state, at such time as shall be prescribed by law, but no session shall exceed the term of ninety legislative days, and no new bill shall be introduced in either branch, except on the written request of the governor, during the last twenty days of such sessions, except the attention of the legislature shall be called to some important matter of general interest by a special message from the governor.

\*As amended November 6, 1860, November 6, 1877, and November 6, 1888. The amendment to this section, proposed by Laws 1881, c. 2, § 1, was not adopted.

Under a provision prohibiting the introduction of bills after the first fifty days, held, that a bill regularly introduced to organize certain territory into the "township of M," might afterwards be amended to the "county of M." Pack v. Barton, (Mich.) 11 N. W. Rep. 307.

See John V. Farwell Co. v. Matheis, 48 Fed. Rep. 363.

**Sec. 2. Number of members.**

The number of members who compose the senate and house of representatives shall be prescribed by law, but the representation in the senate shall never exceed one member for every five thousand inhabitants, and in the house of representatives one member for every two thousand inhabitants. The representation in both houses shall be apportioned equally throughout the different sections of the state, in proportion to the population thereof, exclusive of Indians not taxable under the provisions of law.

**Sec. 3. Election of members.**

Each house shall be the judge of the election, returns and eligibility of its own members; a majority of each shall constitute a quorum to transact business, but a smaller number may adjourn from day to day, and compel the attendance of absent members in such manner and under such penalties as it may provide.

**Sec. 4. Rules for the government of each house.**

Each house may determine the rules of its proceedings, sit upon its own adjournment, punish its members for disorderly behavior, and with the concurrence of two-thirds, expel a member, but no member shall be expelled a second time for the same offence.

See Lincoln v. Haugan, 45 Minn. 451, 48 N. W. Rep. 196.

**Sec. 5. Election of presiding officers.**

The house of representatives shall elect its presiding officer, and the senate and house of representatives shall elect such other officers as may be provided by law; they shall keep journals of their proceedings, and from time to time publish the same, and the yeas and nays, when taken on any question, shall be entered on such journals.

Effect of journal entries to overthrow the presumption that an enrolled bill, properly authenticated, was passed in accordance with the requirements of the constitution, see State v. City of Hastings, 24 Minn. 78.

See State v. Peterson, 83 Minn. 143, 145, 36 N. W. Rep. 443; Lincoln v. Haugan, 45 Minn. 451, 453, 48 N. W. Rep. 196; Comstock v. Tracey, 46 Fed. Rep. 162, 165.

**Sec. 6. Adjournments.**

Neither house shall, during a session of the legislature, adjourn for more than three days, (Sundays excepted,) nor to any other place than that in which the two houses shall be assembled, without the consent of the other house.

Art. 4 §3  
61-NW . 553

Art 4 §3  
59-M - 492

Art 4 §3  
75-NW 211

Art 4 §3  
72-M - 210

Art 4 §4  
83-NW 536

Art 4 §5  
75-NW 211

Art 4 §5  
72-M - 210

**\*Sec. 7. Compensation of members.**

The compensation of senators and representatives shall be three dollars per diem, during the first session, but may afterwards be prescribed by law. But no increase of compensation shall be prescribed which shall take effect during the period for which the members of the existing house of representatives may have been elected.

\*The amendment to this section proposed by Laws 1881, c. 2, § 2, was not adopted.

**Sec. 8. Privileges of members.**

The members of each house shall in all cases, except treason, felony, and breach of the peace, be privileged from arrest during the session of their respective houses, and in going to or returning from the same. For any speech or debate in either house they shall not be questioned in any other place.

A member is not privileged from service of summons in a civil action during a session of the legislature. *Rhodes v. Walsh* (Minn.) 57 N. W. Rep. 212.

Art. 4 § 8  
55-M - 543

**Sec. 9. Restrictions as to members holding office.**

No senator or representative shall, during the time for which he is elected, hold any office under the authority of the United States, or the state of Minnesota, except that of postmaster; and no senator or representative shall hold an office under the state, which had been created, or the emoluments of which had been increased during the session of the legislature of which he was a member, until one year after the expiration of his term of office in the legislature.

Art 4 § 9  
63-M - 147  
65-NW 262

Art 4 § 9  
69-M - 108  
71-NW 910  
75-NW 211

The disability ceases when the office of senator and representative terminates, whether by lapse of time, resignation, or otherwise. *Barnum v. Gilman*, 27 Minn. 466, 8 N. W. Rep. 375.

Art 4 § 9  
72-M - 210

**Sec. 10. Bills for revenue, where to originate.**

All bills for raising a revenue shall originate in the house of representatives, but the senate may propose and concur with amendments, as on other bills.

An act which merely makes an appropriation of public money is not a bill for raising a revenue, though it may necessitate taxation. *Curryer v. Merrill*, 25 Minn. 1.

**Sec. 11. Concerning the passage of bills—Approval or veto by governor.**

Every bill which shall have passed the senate and house of representatives, in conformity to the rules of each house and the joint rules of the two houses, shall, before it becomes a law, be presented to the governor of the state. If he approve, he shall sign and deposit it in the office of secretary of state for preservation, and notify the house, where it originated, of the fact. But if not, he shall return it, with his objections, to the house in which it shall have originated, when such objections shall be entered at large on the journal of the same, and the house shall proceed to reconsider the bill. If, after such reconsideration, two-thirds of that house shall agree to pass the bill, it shall be sent, together with the objections, to the other house, by which it shall likewise be reconsidered, and if it be approved by two-thirds of that house it shall become a law. But in all such cases, the votes of both houses shall be determined by yeas and nays, and the names of the persons voting for or against the bill shall be entered on the journal of each house respectively. If any bill shall not be returned by the governor within three days (Sundays excepted) after it shall have been presented to him, the same shall be a law in like manner as if he had signed it, unless the legislature, by adjournment within that time, prevent its return, in which case it shall not be a law. The governor may approve, sign and file in the office of the secretary of state, within three days after the adjournment of the legislature, any act passed during the last three days of the session, and the same shall become a law.

**Veto of separate items of appropriation bill:**

[If any bill presented to the governor contain several items of appropriation of money, he may object to one or more of such items, while approv-

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ing of the other portion of the bill. In such case, he shall append to the bill, at the time of signing it, a statement of the items to which he objects, and the appropriation so objected to shall not take effect. If the legislature be in session, he shall transmit to the house in which the bill originated a copy of such statement, and the items objected to shall be separately reconsidered. If, on reconsideration, one or more of such items be approved by two-thirds of the members elected to each house, the same shall be a part of the law, notwithstanding the objections of the governor. All the provisions of this section, in relation to bills not approved by the governor, shall apply in cases in which he shall withhold his approval from any item or items contained in a bill appropriating money.]\*

\*The paragraph in brackets was adopted November 7, 1876.

Whether the rules of the two houses were designed to be placed upon the same footing with the rules incorporated in the constitution, see *Supervisors Ramsey Co. v. Heenan*, 2 Minn. 330, 335, (Gil. 281, 286.) See, also, *State v. City of Hastings*, 24 Minn. 78, 81.

An act passed on the 7th, presented to the governor on the 8th, on which date the legislature adjourned *sine die*, and signed by him on the 12th, one of the intervening days being Sunday, is signed within the time prescribed. *Stinson v. Smith*, 8 Minn. 366, (Gil. 326.) In construing the provision giving the governor three full working days after adjournment of the legislature in which to consider and approve bills passed during the last three days of the session, Sundays intervening, after adjournment, are not to be considered. *Id.*; followed, *Moulton v. Doran*, 10 Minn. 67, (Gil. 49.)

A bill, though finally voted on more than three days before the day of adjournment, if enrolled within the last three days, may be signed by the governor. *Burns v. Sewell*, 48 Minn. 425, 51 N. W. Rep. 224.

See *Lincoln v. Haugan*, 45 Minn. 451, 48 N. W. Rep. 196.

The three days referred to in the last clause does not include Sunday. *John V. Farrell Co. v. Matheis*, 48 Fed. Rep. 363.

### Sec. 12. Appropriations of money, how made.

No money shall be appropriated except by bill. Every order, resolution or vote requiring the concurrence of the two houses, (except such as relate to the business or adjournment of the same,) shall be presented to the governor for his signature, and before the same shall take effect, shall be approved by him, or being returned by him with his objections, shall be re-passed by two-thirds of the members of the two houses, according to the rules and limitations prescribed in case of a bill.

The consent of the state to the bringing of an action against the trustees of the hospital for the insane, to determine the title to lands of the state held by them, may be expressed by a joint resolution of the two houses, and need not be by bill. *St. Paul & C. Ry. Co. v. Brown*, 24 Minn. 517, 574.

### Sec. 13. Enacting clause of laws.

The style of all laws of this state shall be: "Be it enacted by the legislature of the state of Minnesota." No law shall be passed unless voted for by a majority of all the members elected to each branch of the legislature, and the vote entered upon the journal of each house.

This section is imperative, and must be strictly followed. *Supervisors Ramsey Co. v. Heenan*, 2 Minn. 330, (Gil. 281.) See, also, *State v. City of Hastings*, 24 Minn. 78, 81. See *Lincoln v. Haugan*, 45 Minn. 451, 453, 48 N. W. Rep. 196.

### Sec. 14. Impeachment.

The house of representatives shall have the sole power of impeachment, through a concurrence of a majority of all the members elected to seats therein. All impeachments shall be tried by the senate; and when sitting for that purpose, the senators shall be upon oath or affirmation to do justice according to law and evidence. No person shall be convicted without the concurrence of two-thirds of the members present.

### Sec. 15. Exclusion of criminals from civil rights.

The legislature shall have full power to exclude from the privilege of electing or being elected, any person convicted of bribery, perjury, or any other infamous crime.

Art 4 §13  
62-NW . 267

Art 4 §13  
67-M - 170  
75-NW1116

Art 4 §13  
73-M - 203

Art 4 §14  
75-NW 212  
Art 4 §14  
72-M - 211

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## Sec. 16. Protest of members.

Two or more members of either house shall have liberty to dissent and protest against any act or resolution which they may think injurious to the public or to any individual, and have the reason of their dissent entered on the journal.

## Sec. 17. Vacancies in legislature.

The governor shall issue writs of election to fill such vacancies as may occur in either house of the legislature. The legislature shall prescribe by law the manner in which evidence in cases of contested seats in either house shall be taken.

## Sec. 18. Punishment for breach of order, etc.

Each house may punish by imprisonment, during its session, any person not a member who shall be guilty of any disorderly or contemptuous behavior in their presence, but no such imprisonment shall at any time exceed twenty-four hours.

## Sec. 19. Sessions to be open to public.

Each house shall be open to the public during the sessions thereof, except in such cases as in their opinion may require secrecy.

See *John V. Farwell Co. v. Matheis*, 48 Fed. Rep. 363.

## Sec. 20. Reading of bills.

Every bill shall be read on three different days in each separate house, unless in case of urgency two-thirds of the house where such bill is depending, shall deem it expedient to dispense with this rule, and no bill shall be passed by either house until it shall have been previously read twice at length.

This section is imperative, and must be strictly followed. See cases last cited.

See *State v. Liedtke*, 9 Neb. 464, 4 N. W. Rep. 72.

See *Comstock v. Tracey*, 46 Fed. Rep. 162, 167.

## Sec. 21. Enrolling and signing of bills.

Every bill having passed both houses shall be carefully enrolled, and shall be signed by the presiding officer of each house. Any presiding officer refusing to sign a bill which shall have previously passed both houses, shall thereafter be incapable of holding a seat in either branch of the legislature, or hold any other office of honor or profit in the state, and in case of such refusal, each house shall, by rule, provide the manner in which such bill shall be properly certified for presentation to the governor.

The authentication of an enrolled bill, in compliance with this section, is presumptive, but not conclusive, evidence that the act was passed in accordance with the requirements of the constitution. *State v. City of Hastings*, 24 Minn. 78. See, also, *Supervisors Ramsey Co. v. Heenan*, 2 Minn. 330, (Gil. 281.)

Failure of presiding officer to sign bill. See *Cottrell v. State*, 9 Neb. 125, 1 N. W. Rep. 1008.

See *Burns v. Sewell*, 48 Minn. 425, 430, 51 N. W. Rep. 224.

## Sec. 22. Passage of bills on last day of session prohibited.

No bill shall be passed by either house of the legislature upon the day prescribed for the adjournment of the two houses. But this section shall not be so construed as to preclude the enrolment of a bill, or the signature and passage from one house to the other, or the reports thereon from committees, or its transmission to the executive for his signature.

See *Burns v. Sewell*, 48 Minn. 425, 430, 51 N. W. Rep. 224.

## Sec. 23. Census, when to be provided for—Apportionment.

The legislature shall provide by law for an enumeration of the inhabitants of this state in the year one thousand eight hundred and sixty-five, and every tenth year thereafter. At their first session after each enumeration so made, and also at their first session after each enumeration made by the authority

Art 4 § 20  
55-M . 406

Art 4 § 21  
72-M - 215

Art. 4

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Art 4 § 23  
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of the United States, the legislature shall have the power to prescribe the bounds of congressional, senatorial and representative districts, and to apportion anew the senators and representatives among the several districts, according to the provisions of section second of this article.

## \*Sec. 24. Senate districts—Term of office of senators and representatives.

The senators shall be chosen by single districts of convenient contiguous territory, at the same time that members of the house of representatives are required to be chosen, and in the same manner; and no representative district shall be divided in the formation of a senate district. The senate districts shall be numbered in a regular series. The terms of office of senators and representatives shall be the same as now prescribed by law, until the general election in the year one thousand eight hundred and seventy-eight, at which time there shall be an entire new election of all the senators and representatives. Representatives chosen at such election, or at any election thereafter, shall hold their office for the term of two years, except it be to fill a vacancy, and the senators chosen at such election by districts designated as odd numbers, shall go out of office at the expiration of the second year, and senators chosen by districts designated by even numbers, shall go out of office at the expiration of the fourth year; and thereafter senators shall be chosen for four years, except there shall be an entire new election of all the senators at the election of representatives next succeeding each new apportionment provided for in this article.

\*As amended November 6, 1877.

## Sec. 25. Qualification of members.

Senators and representatives shall be qualified voters of the state, and shall have resided one year in the state, and six months immediately preceding the election in the district from which they are elected.

## Sec. 26. United States senators.

Members of the senate of the United States from this state shall be elected by the two houses of the legislature in joint convention at such times and in such manner as may be provided by law.

## Sec. 27. Laws to embrace only one subject.

No law shall embrace more than one subject, which shall be expressed in its title.

Where the title of an act is such that the legislature can be deemed to be fairly apprised of its general character by its subject, as expressed in such title, and all the provisions of such act have a just and proper reference thereto, and are such as by the nature of the subject so indicated are manifestly appropriate in that connection, and might reasonably be looked for in a measure of such character, it is sufficient. *State v. Cassidy*, 22 Minn. 312; *State v. Klein*, 22 Minn. 328.

The act of March 9, 1867, relative to the titles, terms, and business of courts in counties unorganized for judicial purposes, does not conflict with this section. *State v. Gut*, 13 Minn. 341, (Gil. 315.) See, also, *City of St. Paul v. Colter*, 12 Minn. 41, (Gil. 16.)

Section 2 of the "homestead exemption act," (Gen. St. c. 68,) providing that a mortgage or other alienation of the homestead by the husband; without the signature of the wife, shall not be valid, is not in conflict with this section. See § 5522. *Barton v. Drake*, 21 Minn. 299, 303.

Chapter 10, Laws 1873, entitled "An act to establish a fund for the foundation and maintenance of an asylum for inebriates," is not repugnant to this section. *State v. Cassidy*, 22 Minn. 312; *State v. Klein*, 22 Minn. 328.

Sp. Laws, 1865, c. 10, consolidating certain railroad companies, authorizing the bridging of the Mississippi, and amending a prior statute, is void for non-compliance with this section. *Winona & St. P. R. Co. v. Waldron*, 11 Minn. 515, (Gil. 392.). See, also, *State v. Kinsella*, 14 Minn. 524, (Gil. 395.)

Laws 1881, c. 10, § 22, concerning notice of expiration of period of redemption in tax sales, is invalid for failure to comply with this section. *State v. Smith*, 35 Minn. 257, 28 N. W. Rep. 241.

The subject of § 3, c. 87, Laws 1860, relative to publication of notice in foreclosure, is sufficiently expressed in the title of the chapter. *Atkinson v. Duffy*, 16 Minn. 45, (Gil. 30.)

The title of Laws 1874, c. 67, concerning forcible entries and detainers, sufficiently expresses its subject. *Hoffman v. Parsons*, 27 Minn. 236, 6 N. W. Rep. 797.

### Art 4 § 27

56-M - 274,  
56-M - 269  
61-NW - 331  
61-NW - 678  
59-NW - 307

### Art 4 § 27

59-M - 322  
59-M - 528  
63-M - 154  
63-M - 209  
63-M - 535  
65-NW 265  
65-NW 267  
65-NW 940  
68-NW1083

### Art 4 § 27

64-M - 71  
65-M - 471  
67-M - 352  
70-M - 358  
70-M - 375  
73-NW 171  
74-NW 280  
75-NW 8  
75-NW 380  
75-NW 745  
75-NW1029  
76-NW 223  
77-NW 569  
78-NW 92

### Art 3 § 27

84-NW 789

### Art 4 § 27

71-M - 517  
72-M - 126  
72-M - 275  
72-M - 512  
72-M - 539  
73-M - 77

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Laws 1887, c. 170, "An act giving labor the right of first lien, and material furnished a second lien, on all property," is sufficiently entitled to make its criminal provisions valid. *State v. Brachvogel*, 38 Minn. 265, 36 N. W. Rep. 641.

In a general law for the organization of a particular class of corporations, the powers granted need not be detailed in the title. *Minnesota Loan & Trust Co. v. Beebe*, 40 Minn. 7, 41 N. W. Rep. 232.

Sp. Laws 1887, c. 5, annexing territory to the city of Winona, is not in conflict with this section because the matter of the change of boundaries of school districts is not mentioned in the title. *City of Winona v. School Dist. No. 82*, 40 Minn. 13, 41 N. W. Rep. 539.

The subject of Laws 1887 c. 191 (§§ 5417, 5418, post), entitled "An act to regulate actions for libel," is sufficiently expressed. *Allen v. Pioneer Press Co.*, 40 Minn. 117, 41 N. W. Rep. 936.

Sp. Laws 1887, c. 333, entitled "An act to provide additional compensation for the auditor and assessor of Ramsey county, for clerk hire during the years 1887 and 1888, in transcribing the books of their respective offices, rendered necessary by the extension of the city limits, and for other purposes," which also fixes the day for the election of a corporation attorney for the city of St. Paul, is in conflict with this section. *State v. Murray*, 41 Minn. 123, 42 N. W. Rep. 858.

An act does not violate this section merely because it by implication repeals a former act. *State v. Gallagher*, 42 Minn. 449, 44 N. W. Rep. 529.

If an amendment is not foreign to the title of the original statute, it makes no difference whether it is cognate to the section amended. *State v. Madson*, 43 Minn. 433, 45 N. W. Rep. 856.

Laws 1889, c. 7, (§ 7010 et seq., post), relating to the adulteration of food, does not violate this section. *Stolz v. Thompson*, 44 Minn. 271, 46 N. W. Rep. 410.

This section should be liberally construed. Laws 1889, c. 204 (§ 5314, post), relating to exemption of wages, does not violate it. *Boyle v. Vanderhoof*, 45 Minn. 31, 47 N. W. Rep. 396.

Sp. Laws 1891, c. 57, entitled "An act to incorporate the city of Lakeside, to provide for its future annexation to the city of Duluth and to the independent school district of Duluth," has only one general subject. *State v. La Vaque*, 47 Minn. 106, 49 N. W. Rep. 525.

The invalidity of one section of an act, because not expressed in the title, does not necessarily affect the other provisions of the act. *Reimer v. Newel*, 47 Minn. 237, 49 N. W. Rep. 565.

Laws 1889, c. 46 (§ 4408 et seq., post), entitled "An act to establish a Probate Code," is not repugnant to this section. *Johnson v. Harrison*, 47 Minn. 575, 50 N. W. Rep. 923.

The subject of Laws 1889, c. 30, amending the insolvent law of 1881 (§ 4240, et seq., post), is sufficiently expressed in its title. *Willis v. Mabon*, 48 Minn. 140, 50 N. W. Rep. 1110.

The subject of Laws 1889, c. 246, § 4, providing for the inspection of illuminating oils in tank cars, is sufficiently expressed in its title. See note to § 446. *Willis v. Standard Oil Co.*, 50 Minn. 290, 52 N. W. Rep. 652.

Laws 1889, c. 198 (§ 1654, post), entitled "An act to amend § 37, c. 6, Laws 1877, relating to notice of redemption from tax sales," does not violate this section, in that it contains a proviso that the preceding parts of the act, extending the time to redeem until 60 days after service of the notice, shall apply to cases where the property was bought in by the state. *State v. Bigelow*, 52 Minn. 307, 54 N. W. Rep. 95.

See, also, *State v. Porter*, 53 Minn. 279, 55 N. W. Rep. 134; *Kedzie v. Town of Ewington*, 54 Minn. 116, 55 N. W. Rep. 864.

An act may embrace provisions for the organization of a county and of several townships therein. *Attorney General v. Weimar*, (Mich.) 26 N. W. Rep. 773; *Attorney General v. Hollister*, Id. 777.

A section inflicting a penalty on any person who may become intoxicated in any public place, contained in an act, the title of which shows its whole purpose to be the regulation of the sale of liquors, is invalid. *People v. Beadle*, (Mich.) 26 N. W. Rep. 800.

Under an act entitled "An act to regulate the sale of intoxicating liquors," an amendatory section prohibiting the sale thereof within certain limits is void. *People v. Gadoway*, (Mich.) 28 N. W. Rep. 101.

It has been held that only the provisions foreign to the title are invalid, and that the remaining provisions will stand. *Henckle v. Town of Keota*, (Iowa,) 27 N. W. Rep. 250; *State v. Hards*, (Neb.) Id. 139; *State v. Caldwell*, (Neb.) 22 N. W. Rep. 228; *State v. Schroeder*, 51 Iowa, 197, 1 N. W. Rep. 431. *Contra*, *Skinner v. Wilhelm*, (Mich.) 30 N. W. Rep. 311.

For further illustration of the rule that the subject must be expressed in the title, see *State v. Cantieny*, 34 Minn. 1, 24 N. W. Rep. 458; *Mississippi, etc., Boom Co. v. Prince*, 34 Minn. 79, 24 N. W. Rep. 361; *Gillitt v. McCarthy*, 34 Minn. 318, 25 N. W. Rep. 637; *Butler v. Chambers*, 36 Minn. 69, 30 N. W. Rep. 308; *Supervisors Ramsey Co. v. Heenan*, 2 Minn. 330, (Gil. 231); *State v. Smith*, 35 Minn. 257, 23 N. W. Rep. 241; *Attorney General v. Amos*, (Mich.) 27 N. W. Rep. 571; *Callaghan v. Judge*, (Mich.) 26 N. W. Rep. 806; *Northwestern Manuf'g Co. v. Chambers*, (Mich.) 25 N. W. Rep. 372; *Galting v. Lane*,



(Neb.) 22 N. W. Rep. 453; *Herdman v. Marshall*, Id: 690; *State v. Ream*, (Neb.) 21 N. W. Rep. 398; *Stewart v. Father Mathew Soc.*, 41 Mich. 67, 1 N. W. Rep. 931; *Miller v. Hurford*, 11 Neb. 377, 9 N. W. Rep. 477, and 13 Neb. 13, 12 N. W. Rep. 832; *State v. County of Pierce*, 10 Neb. 476, 6 N. W. Rep. 763; *Continental Imp. Co. v. Phelps*, 47 Mich. 299, 11 N. W. Rep. 167; *Tingue v. Village of Port Chester*, (N. Y.) 4 N. E. Rep. 625; *In re McPherson*, (N. Y.) 10 N. E. Rep. 685; *Mix v. Illinois Cent. R. Co.*, (Ill.) 6 N. E. Rep. 42; *Crawfordsville, etc., Turnpike Co. v. Fletcher*, (Ind.) 2 N. E. Rep. 243; *Board of Water Com'rs v. Dwight*, (N. Y.) 3 N. E. Rep. 782.

**Sec. 28. Divorces.**

Divorces shall not be granted by the legislature.

**Sec. 29. Oath of office.**

All members and officers of both branches of the legislature shall, before entering upon the duties of their respective trusts, take and subscribe an oath or affirmation to support the constitution of the United States, the constitution of the state of Minnesota, and faithfully and impartially to discharge the duties devolving upon him as such member or officer.

**Sec. 30. Manner of voting.**

In all elections to be made by the legislature, the members thereof shall vote viva voce, and their votes shall be entered on the journal.

Cited, *State v. City of Hastings*, 24 Minn. 78.

**Sec. 31. Sale of lottery tickets.**

The legislature shall never authorize any lottery, or the sale of lottery tickets.

**\*Sec. 32a. Taxation of railroad companies.**

Any law providing for the repeal or amendment of any law or laws heretofore or hereafter enacted, which provides that any railroad company now existing in this state, or operating its road therein, or which may be hereafter organized, shall in lieu of all other taxes and assessments upon their real estate, roads, rolling stock, and other personal property, at and during the time and periods therein specified, pay into the treasury of this state a certain per centage therein mentioned of the gross earnings of such railroad companies now existing or hereafter organized, shall, before the same shall take effect and be in force, be submitted to a vote of the people of the state, and be adopted and ratified by a majority of the electors of the state voting at the election at which the same shall be submitted to them.

\*Adopted November 8, 1871.

Laws passed after the adoption of the constitution, providing for payment of a percentage of gross earnings of a railroad company in lieu of taxes, if invalid when passed, were validated by this amendment. *State v. Luther* (Minn.) 57 N. W. Rep. 464.

See *In re County of Stevens*, 36 Minn. 467, 31 N. W. Rep. 943.

**†Sec. 32b. Internal improvement lands, how to be appraised and sold and proceeds invested.**

All lands donated to the state of Minnesota for the purpose of internal improvement, under the eighth section of the act of congress approved September fourth, eighteen hundred and forty-one, being "an act to appropriate the proceeds of the sales of the public lands, and to grant pre-emption rights," shall be appraised and sold, in the same manner and by the same officers, and the minimum price shall be the same as is provided by law for the appraisal and sale of the school lands, under the provisions of title one of chapter thirty-eight of the general statutes, except the modifications hereinafter mentioned. All moneys derived from the sales of the said lands shall be invested in the bonds of the United States, or of the state of Minnesota, issued since 1860, and the moneys so invested shall constitute the internal improvement land fund of the state. All moneys received by the county treasurer under the provisions of title one, chapter thirty-eight aforesaid, derived from the sale of the internal improvement lands, shall be held at all times

†Adopted November 5, 1872.

Art 4 §31  
56-M . 498

Art. 4 §32a  
56-M . 157  
56-M . 162  
56-M . 164

Art 4 §32a  
75-NW 210

Art 4 §32a  
72-M - 200  
73-M - 426  
80-NW 626

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subject to the order and direction of the state treasurer, for the benefit of the fund to which it belongs; and on the 15th day of June in each year, and at such other times as he may be requested so to do by the state treasurer, he shall pay over to the said state treasurer all moneys received on account of such fund.

The bonds purchased in accordance with this amendment shall be transferable only upon the order of the governor, and on each bond shall be written, "Minnesota internal improvement land fund of the state, transferable only on the order of the governor."

The principal sum from all sales of internal improvement lands, shall not be reduced by any charges or costs of officers; by fees or by any other means whatever; and section fifty of title one of chapter thirty-eight of the general statutes, shall not be applicable to the provisions of this amendment, and wherever the words "school lands" are used in said title, it shall read, as applicable to this amendment, "internal improvement lands."

## Funds, how appropriated.

The moneys belonging to the internal improvement land fund shall not be appropriated for any purpose whatever, until the enactment for that purpose shall have been approved by a majority of the electors of the state, voting at the annual general election following the passage of the act.

The force of this amendment shall be to authorize the sale of the internal improvement lands, without further legislative enactment.

## \*Sec. 33. Prohibition of special legislation.

In all cases when a general law can be made applicable no special law shall be enacted; and whether a general law could have been made applicable in any case is hereby declared a judicial question, and as such shall be judicially determined without regard to any legislative assertion on that subject. The legislature shall pass no local or special law regulating the affairs of, or incorporating, erecting or changing the lines of any county, city, village, township, ward or school district, or creating the offices, or prescribing the powers and duties of the officers of, or fixing or relating to the compensation, salary or fees of the same, or the mode of election or appointment thereto; authorizing the laying out, opening, altering, vacating or maintaining roads, highways, streets or alleys; remitting fines, penalties or forfeitures; regulating the powers, duties and practice of justices of the peace, magistrates and constables; changing the names of persons, places, lakes or rivers; for opening and conducting of elections, or fixing or changing the places of voting; authorizing the adoption or legitimation of children; changing the law of descent or succession; conferring rights upon minors; declaring any named person of age; giving effect to informal or invalid wills or deeds, or affecting the estates of minors or persons under disability; locating or changing county seats; regulating the management of public schools, the building or repairing of school houses, and the raising of money for such purposes; exempting property from taxation, or regulating the rate of interest on money; creating corporations, or amending, renewing, extending or explaining the charters thereof; granting to any corporation, association or individual any special or exclusive privilege, immunity or franchise whatever, or authorizing public taxation for a private purpose. Provided, however, That the inhibitions of local or special laws in this section shall not be construed to prevent the passage of general laws on any of the subjects enumerated.

The legislature may repeal any existing special or local law, but shall not amend, extend or modify any of the same.

\*As amended November 8, 1892.

A law repealing a prior special law is not unconstitutional. *Pushor v. Village of Morris*, 53 Minn. 325, 55 N. W. Rep. 143.

Laws 1893, c. 243, "An act to provide additional means for completing and furnishing the courthouse and city hall building now in process of erection in the city of Minneapolis, and to authorize the issue and sale of bonds therefor," though special in form, is general in fact. *State v. Cooley* (Minn.) 58 N. W. Rep. 150.

The prohibition against special legislation on a subject does not prevent the legislature from dividing it into classes, and applying different rules to different classes. If

### Art 4 § 33

56-M - 545  
63-NW 1103  
56-M - 540  
62-NW - 267  
59-NW - 317

### Art 4 § 33

57-M - 49  
59-M - 525  
60-M - 179  
61-M - 185  
61-M - 465  
61-M - 547  
62-M - 283  
64-NW 192  
64-NW 813  
68-NW 767  
69-NW 27  
69-NW 1094

### Art 4 § 33

64-M - 334  
64-M - 381  
65-M - 409  
66-M - 315  
66-M - 519  
67-M - 379  
69-M - 206  
70-M - 99  
70-M - 343  
70-M - 358  
70-M - 375  
72-NW 67  
72-NW 843  
73-NW 172  
75-NW 746  
78-NW 106

### Art 4 § 33

72-M - 126  
74-M - 180  
75-M - 34  
75-M - 457  
76-M - 18  
76-M - 531  
77-M - 445  
77-M - 453  
79-M - 201  
78-NW 106  
79-NW 535  
80-NW 620  
80-NW 623  
81-NW 912  
83-NW 417  
84-NW 103  
84-NW 836

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the basis of classification is valid, it is immaterial how few members there are in the class. *Id.*

See, also, note to art. 4, § 34.

Laws 1893, c. 210, "An act to authorize the construction of tunnels by cities in certain cases," is in conflict with this section, for the reason that the act adopts, and applies to the subject, existing special legislation contained in the charters of the various cities. *Alexander v. City of Duluth (Minn.)* 58 N. W. Rep. 866.

## Decisions prior to the amendment of 1891.

Under subd. 5 (prohibiting special legislation for changing any county seat), Laws 1885, c. 272, for removing county seats, is invalid. *Nichols v. Walter*, 37 Minn. 264, 33 N. W. Rep. 800.

Laws 1889, c. 174 (§ 647 et seq., post), for removing county seats, is valid. *Todd v. Rustad*, 43 Minn. 500, 46 N. W. Rep. 73.

Under subd. 7 (prohibiting special legislation for granting corporate powers or privileges except to cities). See *Morton v. Power*, 33 Minn. 521, 24 N. W. Rep. 194; *Green v. Knife Falls Boom Corp.*, 35 Minn. 155, 27 N. W. Rep. 924. See notes to subd. 9 and subd. 10.

Under subd. 9 (prohibiting special legislation for incorporating any town or village). See *State v. County of Sauk, (Wis.)* 22 N. W. Rep. 572.

Laws 1885, c. 231, declaring valid the incorporation of villages attempted to be incorporated under Laws 1883, c. 73, is valid. *State v. Spaude*, 37 Minn. 322, 34 N. W. Rep. 164.

Laws 1891, c. 146 (§ 1276 et seq., post), entitled "An act relating to villages of over 3,000 inhabitants, and providing for municipal courts therein," is not unconstitutional. *McCormick v. Village of West Duluth*, 47 Minn. 272, 50 N. W. Rep. 123.

Sp. Laws 1891, c. 265, making it the duty of the village council to designate the official newspaper of the village, and have published in it the proceedings of the council, is not in violation of this section. *State v. Village Council of Village of Cloquet*, 52 Minn. 9, 53 N. W. Rep. 1016.

See, generally, *Green v. Knife Falls Boom Corp.*, 35 Minn. 155, 27 N. W. Rep. 924; *State v. Berka, (Neb.)* 30 N. W. Rep. 267; *State v. Piper, (Neb.)* 24 N. W. Rep. 204; *Cooper v. County of Mills, (Iowa.)* 23 N. W. Rep. 633; *Baldwin v. Ely, (Wis.)* *Id.* 392; *State v. Pugh, (Ohio.)* 1 N. E. Rep. 439; *People v. Loew, (N. Y.)* 7 N. E. Rep. 297; *Johnson v. Wells, (Ind.)* 8 N. E. Rep. 1; *In re Mayor, (N. Y.)* 2 N. E. Rep. 642; *People v. Haselwood, (Ill.)* 6 N. E. Rep. 480; *State v. Anderson, (Ohio.)* *Id.* 571; *State v. Hudson, (Ohio.)* 5 N. E. Rep. 225.

Under subd. 10, (prohibiting special legislation for granting to any individual, association, or corporation, except municipal, any special or exclusive privilege, immunity, or franchise whatever.) Laws 1887, c. 158, entitled "An act providing for the judicial determination and adjustment of two alleged claims of W. H. Dike," is not in violation of this section. *Dike v. State*, 38 Minn. 366, 38 N. W. Rep. 95. See *State v. Spaude*, 37 Minn. 322, 34 N. W. Rep. 164.

Laws 1883, c. 107 (§ 2341 et seq., post), granting annuity, safe-deposit, and trust companies power to act as guardians of insane persons, is not in conflict with this section. *Minnesota Loan & Trust Co. v. Beebe*, 40 Minn. 7, 41 N. W. Rep. 232.

A special law providing for payment to a particular school district of money received from liquor licenses in a village within such district is not unconstitutional. *State v. Beck*, 50 Minn. 47, 52 N. W. Rep. 380.

## \*Sec. 34. General laws in place of special.

The legislature shall provide general laws for the transaction of any business that may be prohibited by section one of this amendment, and all such laws shall be uniform in their operation throughout the state.

\*As amended November 8, 1891.

As to the criterion for determining whether legislation affecting certain classes of persons or places is general or special, see *State v. Spaude*, 37 Minn. 322, 34 N. W. Rep. 164; *Nichols v. Walter*, 37 Minn. 264, 33 N. W. Rep. 500.

A statute must treat alike all of the class to which it applies, and must bring within its classification all who are similarly situated or under the same conditions. The classification in Sp. Laws 1889, c. 375, declaring the emission of dense smoke within the city of St. Paul a nuisance, under certain conditions, held arbitrary and unconstitutional. *State v. Sheriff of Ramsey County*, 43 Minn. 236, 51 N. W. Rep. 112.

See, also, *State v. Cooley and Alexander v. City of Duluth*, cited in note to art. 4, § 33; and note to art. 1, § 7.

## †Sec. 35. Freedom of markets—Conspiracy.

Any combination of persons, either as individuals or as members or officers of any corporation, to monopolize the markets for food products in this state,

†This section was added November 6, 1888.

### Art 4 §34

61-M - 547  
62-M - 287  
64-NW 815  
68-NW 767  
69-NW 27

### Art 4 §34

64-M - 336  
66-M - 315  
66-M - 519  
68-M - 539  
69-M - 206  
72-NW 67

### Art 4 §34

72-M - 126  
76-M - 533  
77-M - 445  
77-M - 453  
79-M - 201  
80-NW 620  
80-NW 623  
81-NW 912  
83-NW 417  
84-NW 103  
84-NW 336

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 '05 . . . 87  
 '05 . . . 223  
 '05 . . . 250  
 '05 . . . 253  
 '05 . . . 268  
 '05 . . . 335  
 87-M . . . 23  
 87-M . . . 146  
 90-M . . . 420

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or to interfere with or restrict the freedom of such markets, is hereby declared to be a criminal conspiracy, and shall be punished in such manner as the legislature may provide.

Art 4 § 36  
 95 ch. 4

ARTICLE V.

EXECUTIVE DEPARTMENT.

Art 4 § 36  
 77-M - 445  
 80-NW 623  
 83-NW 498  
 83-NW 536  
 83-NW 984  
 Art 4 § 36  
 97 - 280

Section 1. Executive department.

The executive department shall consist of a governor, lieutenant governor, secretary of state, auditor, treasurer and attorney general, who shall be chosen by the electors of the state.

Cited, State v. Dike, 20 Minn. 363, (Gil. 314.)

Art 5 § 1  
 69-M - 191  
 72-NW 66  
 75-NW 211

\*Sec. 2. Canvassing of election returns.

The returns of every election for the officers named in the foregoing section, shall be made to the secretary of state, who shall call to his assistance two or more of the judges of the supreme court, and two disinterested judges of the district courts of the state, who shall constitute a board of canvassers, who shall open and canvass said returns and declare the result within three days after such canvass.

\*As amended November 6, 1877.

Art 5 § 1  
 72-M - 210

Sec. 3. Term of office of governor and lieutenant governor.

The term of office for the governor and lieutenant governor shall be two years and until their successors are chosen and qualified. Each shall have attained the age of twenty-five years, and shall have been a bona fide resident of the state for one year next preceding his election. Both shall be citizens of the United States.

Sec. 4. Governor—His duties.

The governor shall communicate by message to each session of the legislature such information touching the state and condition of the country as he may deem expedient. He shall be commander-in-chief of the military and naval forces, and may call out such forces to execute the laws, suppress insurrection and repel invasion. He may require the opinion, in writing, of the principal officer in each of the executive departments, upon any subject relating to the duties of their respective offices; and he shall have power to grant reprieves and pardons, after conviction, for offences against the state, except in cases of impeachment. He shall have power, by and with the advice and consent of the senate, to appoint a state librarian and notaries public, and such other officers as may be provided by law. He shall have power to appoint commissioners to take the acknowledgment of deeds, or other instruments in writing, to be used in the state. He shall have a negative upon all laws passed by the legislature, under such rules and limitations as are in this constitution prescribed. He may on extraordinary occasions convene both houses of the legislature. He shall take care that the laws be faithfully executed, fill any vacancy that may occur in the office of secretary of state, treasurer, auditor, attorney-general, and such other state and district offices as may be hereafter created by law, until the next annual election, and until their successors are chosen and qualified.

Art. 5 § 4  
 95 ch. 2

Art 5 § 4  
 69-M - 311  
 72-NW 117

The governor cannot fill a vacancy in the office of judge of probate, by virtue of the power to fill vacancies conferred by this section. Crowell v. Lambert, 9 Minn. 233, (Gil. 267, 271.)

†Sec. 5. Terms of office and salaries of state officers.

The official term of the secretary of state, treasurer, and attorney general shall be two years; the official term of the state auditor shall be four years;

†As amended November 6, 1893.

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and each shall continue in office until his successor shall have been elected and qualified. The further duties and the salaries of said executive officers shall each be prescribed by law.

Art 5 §6  
75-NW 211

Art 5 §6  
72-M - 210

## Sec. 6. Lieutenant-governor—His duties.

The lieutenant-governor shall be ex-officio president of the senate; and in case a vacancy should occur, from any cause whatever, in the office of governor, he shall be governor during such vacancy. The compensation of lieutenant-governor shall be double the compensation of a state senator. Before the close of each session of the senate, they shall elect a president pro tempore, who shall be lieutenant-governor in case a vacancy should occur in that office.

## \*Sec. 7. Commencement of terms of office in 1858.

The term of each of the executive officers named in this article, shall commence on taking the oath of office on or after the first day of May, 1858, and continue until the first Monday of January, 1860, except the auditor, who shall continue in office till the first Monday of January, 1861, and until their successors shall have been duly elected and qualified; and the same above-mentioned time for qualification and entry upon the duties of their respective offices shall extend and apply to all other officers elected under the state constitution, who have not already taken the oath of office, and commenced the performance of their official duties.

\*As amended April 15, 1858.

Cited, *State v. Munch*, 22 Minn. 67, 71.

## Sec. 8. Oath of office.

Each officer created by this article, shall, before entering upon his duties, take an oath or affirmation to support the constitution of the United States, and of this state, and faithfully discharge the duties of his office to the best of his judgment and ability.

## Sec. 9. Duties of legislature.

Laws shall be passed at the first session of the legislature after the state is admitted into the Union to carry out the provisions of this article.

## ARTICLE VI.

### JUDICIARY.

#### Section 1. Judicial power.

The judicial power of the state shall be vested in a supreme court, district courts, courts of probate, justices of the peace, and such other courts, inferior to the supreme court, as the legislature may from time to time establish by a two-thirds vote.

The statute authorizing trial by referees is not unconstitutional. *Carson v. Smith*, 5 Minn. 78, (Gil. 58.) But a statute authorizing a compulsory reference in actions at law, involving the examination of a long account—*G. S. 1866, c. 66, § 228* (§ 5391, post)—is unconstitutional. *St. Paul & S. C. R. Co. v. Gardner*, 19 Minn. 132, (Gil. 99.)

The provision of the charter of the First Division St. Paul & Pacific Railroad Company, (Laws 1857, Ex. Sess. c. 1.) authorizing the appointment, by a judge of the supreme court, of commissioners for the condemnation of lands for the use of said company, is not repugnant to this section. *Warren v. First Div. St. P. & P. R. Co.*, 18 Minn. 384, (Gil. 345.)

Under this section, clerks of district courts cannot issue warrants of attachment. These are judicial acts. *Morrison v. Lovejoy*, 6 Minn. 183, (Gil. 117.)

*G. S. 1866, c. 66, § 192, subd. 1* (§ 5354 post), authorizing the clerk to enter judgment by default, is not in conflict with this section. *Skillman v. Greenwood*, 15 Minn. 102, (Gil. 77.)

An act of the legislature of Wisconsin, ratifying acts of a state agent done in excess of his authority, held not an assumption of judicial functions. *State v. Torinus*, 28 Minn. 175, 9 N. W. Rep. 725.

Art 6 §1  
67-M - 382  
68-M - 391  
77-NW 287

Art 6 §1  
74-M - 502

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Sp. Laws 1885, c. 74, §§ 1, 22, conferring jurisdiction upon the municipal court of Minneapolis, exclusive of justices of the peace, are constitutional. *Burke v. St. Paul, M. & M. Ry. Co.*, 35 Minn. 172, 28 N. W. Rep. 190.

An act legalizing the previously unauthorized publication of a financial statement of the county, and requiring the county commissioners to pay for the publication at rates not exceeding the maximum rates allowed by law for publications of a like character, is constitutional. *Fuller v. County of Morrison*, 36 Minn. 309, 30 N. W. Rep. 824.

The duties of regulating and directing the reassessment of invalid taxes are not judicial, and a statute imposing them upon the court is unconstitutional. *Houseman v. Kent*, (Mich.) 25 N. W. Rep. 369.

See, further, as to judicial functions and officers, *City of St. Paul v. Umstetter*, 37 Minn. 15, 33 N. W. Rep. 115; *Jordan v. Bailey*, 31 Minn. 174, 33 N. W. Rep. 778.

The "two-thirds vote," by which the legislature may establish new courts, is a vote in each house of two-thirds of all its members. *State v. Gould*, 31 Minn. 189, 17 N. W. Rep. 276.

See *Comstock v. Tracey*, 46 Fed. Rep. 162.

## \*Sec. 2. Supreme court.

The supreme court shall consist of one chief justice, and two associate justices, but the number of associate justices may be increased, to a number not exceeding four, by the legislature, by a two-thirds vote, when it shall be deemed necessary. It shall have original jurisdiction in such remedial cases as may be prescribed by law, and appellate jurisdiction in all cases, both in law and equity; but there shall be no trial by jury in said court. It shall hold one or more terms in each year, as the legislature may direct, at the seat of government, and the legislature may provide, by a two-thirds vote, that one term in each year shall be held in each or any judicial district. It shall be the duty of such court to appoint a reporter of its decisions. There shall be chosen by the qualified electors of the state one clerk of the supreme court, who shall hold his office for the term of four years, and until his successor is duly elected and qualified, and the judges of the supreme court, or a majority of them, shall have the power to fill any vacancy in the office of clerk of the supreme court until an election can be regularly held.

\* As amended November 6, 1883.

"Jurisdiction," as used in this section, and in §§ 5 and 7 of this article, means "authority to hear and determine" in the abstract. *U. S. v. Arredondo*, 6 Pet. 709; *Grignon's Lessee v. Astor*, 2 How. 319; *Montour v. Purdy*, 11 Minn. 384, (Gil. 278, 297.)

The legal and equitable jurisdiction conferred by this section and § 5, *infra*, are not separate and distinct one from the other, as if each was vested in a separate court. *Holmes v. Campbell*, 12 Minn. 221, (Gil. 141.)

The supreme court has jurisdiction by *quo warranto* to enforce the forfeiture of the charter of a corporation. *State v. St. Paul & S. C. R. Co.*, 35 Minn. 222, 28 N. W. Rep. 245.

*Mandamus* may be issued to all courts of inferior jurisdiction, and to individuals. *Crowell v. Lambert*, 10 Minn. 369, (Gil. 295.) The supreme court cannot issue an alternative writ of *mandamus*, inasmuch as, in such proceedings, the defendant is entitled to a trial by jury. But a peremptory writ may be issued on notice. *Harkins v. Supervisors Scott Co.*, 2 Minn. 342, (Gil. 294.)

For the same reason it cannot issue the writ of prohibition under such form as will entitle the parties to join issue upon the return to be tried by a jury, but will issue the writ in the form of an order to show cause, the return to which may be controverted by affidavits, and the proceeding be determined as a motion. *Prignitz v. Fischer*, 4 Minn. 366, (Gil. 275.)

The provision of the charter of St. Paul that no appeal shall lie from the judgment of the city justice in cases of assault, where the judgment or fine imposed, exclusive of costs, is less than twenty-five dollars, does not attempt to take away the right of review by *certiorari*, and is not in conflict with this section. *Tierney v. Dodge*, 9 Minn. 166, (Gil. 153.)

The very nature of its appellate jurisdiction confines the court to a consideration of such questions as, originating in another court, have been there actually or presumably considered and passed upon in the first instance. Orders entered *pro forma* will not be reviewed. *Johnson v. Howard*, 25 Minn. 558.

The validity of G. S. 1878, c. 86, § 21 (§ 6153, post), relating to dismissal of appeals in supreme court, doubted, if the section is imperative, without power in the court to relieve. *Baldwin v. Rogers*, 28 Minn. 68, 9 N. W. Rep. 79.

The court will not review questions, *e. g.*, the assessment of damages or costs by the clerk of the district court, which have not been actually passed on by the court below.

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unless substantial error is quite apparent, and adequate relief cannot be had below. *Babeock v. Sanborn*, 3 Minn. 141, (Gil. 86.)

The appointment, by a judge of the supreme court, of commissioners in proceedings to condemn lands for railroad purposes, is not an exercise of original jurisdiction unwarranted by this section. *Warren v. First Div. St. P. & P. R. Co.*, 18 Minn. 384, (Gil. 345.)

There is no right to a jury trial in the "remedial cases" here referred to. *State v. City of Lake City*, 25 Minn. 404, 427.

Proceedings upon information in the nature of quo warranto belong to the "remedial cases." *State v. Minnesota Thresher Manuf'g Co.*, 40 Minn. 213, 41 N. W. Rep. 1020.

### \*Sec. 3. Judges of supreme court, how elected.

The judges of the supreme court shall be elected by the electors of the state at large, and their term of office shall be six years, and until their successors are elected and qualified.

### † When district judge assigned to sit in supreme court.

Whenever all or a majority of the judges of the supreme court shall, from any cause, be disqualified from sitting in any case in said court, the governor, or, if he shall be interested in the result of such case, then the lieutenant-governor, shall assign judges of the district court of the state, who shall sit in such case in place of such disqualified judges, with all the powers and duties of judges of the supreme court.

\*As amended November 6, 1883.

† Added November 7, 1876.

### †† Sec. 4. Judicial districts—Term of office of judges.

The state shall be divided by the legislature into judicial districts, which shall be composed of contiguous territory, be bounded by county lines, and contain a population as nearly equal as may be practicable. In each judicial district one or more judges, as the legislature may prescribe, shall be elected by the electors thereof, whose term of office shall be six years; and each of said judges shall severally have and exercise the powers of the court under such limitations as may be prescribed by law. Every district judge shall at the time of his election be a resident of the district for which he shall be elected, and shall reside therein during his continuance in office. In case any court of common pleas heretofore established shall be abolished, the judge of such court may be constituted by the legislature one of the judges of the district court of the district wherein such court has been so established, for a period not exceeding the unexpired term for which he was elected.

†As amended 1875 and 1883; Laws 1885, p. 2.

The legislature may provide that a district court shall be held at one place for each district, including several counties in its territorial jurisdiction, or at several places, including one or more counties or parts of counties. *State v. Robinson*, 14 Minn. 447, (Gil. 333, 338.)

### Sec. 5. District courts.

The district courts shall have original jurisdiction in all civil cases, both in law and equity, where the amount in controversy exceeds one hundred dollars, and in all criminal cases where the punishment shall exceed three months' imprisonment or a fine of more than one hundred dollars, and shall have such appellate jurisdiction as may be prescribed by law. The legislature may provide by law that the judge of one district may discharge the duties of the judge of any other district not his own, when convenience or the public interest may require it.

"Original" jurisdiction is not to be deemed equivalent to "exclusive" jurisdiction. *Crowell v. Lambert*, 10 Minn. 369, (Gil. 295, 298.)

The district court was intended to receive and exercise, in the first instance, all the judicial power not vested by the constitution in other courts, without regard to the amount in controversy. If less than \$100, plaintiff cannot recover costs. *Agin v. Heyward*, 6 Minn. 110, (Gil. 53;) followed, *Southern Minn. R. Co. v. Stoddard*, Id. 150, (Gil. 92;) *Cressey v. Gierman*, 7 Minn. 398, (Gil. 316.) Where one sues on his own and other's behalf, also, the court has jurisdiction if all the claims sued for amount to more than

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\$100, though plaintiff's alone is less than that amount. *Goncelier v. Foret*, 4 Minn. 13, (Gil. 1.)

The district court may try indictments for selling liquor without license. *State v. Bach*, 36 Minn. 478, 30 N. W. Rep. 764.

See *State v. District Court First Judicial District*, 52 Minn. 233, 53 N. W. Rep. 1157.

## Sec. 6. Qualifications of the judges of the supreme and district courts.

Art 6 §6  
74-M - 508

The judges of the supreme and district courts shall be men learned in the law, and shall receive such compensation at stated times, as may be prescribed by the legislature, which compensation shall not be diminished during their continuance in office, but they shall receive no other fee or reward for their services.

## Sec. 7. Probate court.

There shall be established in each organized county in the state a probate court, which shall be a court of record, and be held at such times and places as may be prescribed by law. It shall be held by one judge, who shall be elected by the voters of the county for the term of two years. He shall be a resident of such county at the time of his election, and reside therein during his continuance in office, and his compensation shall be provided by law. He may appoint his own clerk, where none has been elected, but the legislature may authorize the election by the electors of any county, of one clerk or register of probate for such county, whose powers, duties, term of office and compensation shall be prescribed by law. A probate court shall have jurisdiction over the estates of deceased persons, and persons under guardianship, but no other jurisdiction, except as prescribed by this constitution.

Art 6 §7  
55-M . 111

Art 6 §7  
61-M - 525  
67-NW 207

Art 6 §7  
68-M - 391  
74-NW 899

Art 6 §7  
72-M - 19  
77-M - 221  
79-NW 828

One elected to fill a vacancy in the office of probate judge holds for the full term of two years, and not merely for the unexpired portion of his predecessor's term. *Crowell v. Lambert*, 9 Minn. 283, (Gil. 267;) followed *State v. Black*, 22 Minn. 336, 338.

Where a county, "established," but not "organized," nor authorized to have a probate court, is attached for judicial purposes to an organized county, the probate court of the latter has jurisdiction over the former. *State v. Wilcox*, 24 Minn. 143.

The powers and duties of probate judges, under Gen. St. 1878, c. 10, § 124, (§ 1045, post,) as to the incorporation of cities, are not judicial; nor is the act invalid as conferring on probate courts or judges judicial power beyond that authorized by the constitution. *State v. Ueland*, 30 Minn. 29, 14 N. W. Rep. 58; followed, *State v. Ostrum*, 35 Minn. 480, 29 N. W. Rep. 585; *State v. Wiswell*, 35 Minn. 480, 29 N. W. Rep. 586.

The probate court has jurisdiction to place persons under guardianship, control the management and disposition of property and person, and, so far as matters of guardianship are concerned, have jurisdiction after the guardianship has terminated. *Jacobs v. Fouse*, 23 Minn. 51.

Relationship to a guardian *ad litem* will not disqualify a judge from acting in the case. *Bryant v. Livermore*, 20 Minn. 313, (Gil. 271.)

G. S. 1873, c. 58, authorizing the probate court to enforce a decedent's contract to convey land, is constitutional. *Monsseau v. Monsseau*, 40 Minn. 236, 41 N. W. Rep. 977.

G. S. 1878, c. 35, § 44, and the acts amendatory thereto, which confer on justices of the peace power to commit infants, for incorrigibly vicious conduct, to the care and guardianship of the managers of the state reform school for terms exceeding three months, are not repugnant to this section, or to § 8, post. *State v. Brown*, 50 Minn. 353, 52 N. W. Rep. 935. See § 3523, post.

Laws 1889, c. 46 (§ 4408 et seq., post), impliedly excluding the presentation to the probate court of claims arising on tort, is not in conflict with this section. *Comstock v. Mathews* (Minn.) 56 N. W. Rep. 583.

See *Crowell v. Lambert*, 10 Minn. 369 (Gil. 275).

## Sec. 8. Justices of the peace.

Art 6 §8  
68-M - 438  
71-NW 620  
76-NW1129

The legislature shall provide for the election of a sufficient number of justices of the peace in each county, whose term of office shall be two years, and whose duties and compensation shall be prescribed by law: provided, that no justice of the peace shall have jurisdiction of any civil cause where the amount in controversy shall exceed one hundred dollars, nor in a criminal cause where the punishment shall exceed three months' imprisonment, or a fine of over one hundred dollars, nor in any cause involving the title to real estate.

Art 6 §8  
74-M - 242

The legislature cannot confer on a justice of the peace jurisdiction over offenses punishable by imprisonment in the state prison. *State v. Charles*, 16 Minn. 474, (Gil. 426.)



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The "amount in controversy" does not include costs. *Watson v. Ward*, 27 Minn. 29, 6 N. W. Rep. 407.

A justice of the peace has no jurisdiction of a prosecution for obstructing a highway in which the title to real estate is involved. *State v. Cotton*, 29 Minn. 137, 12 N. W. Rep. 529.

The title to real estate must come in question *on the evidence*, not on the pleadings merely, before the justice will lose jurisdiction. *Goenen v. Schroeder*, 8 Minn. 387, (Gil. 344. See, also, *Goenen v. Schroeder*, 18 Minn. 66, (Gil. 51.)

See *Burke v. St. Paul, M. & M. Ry. Co.*, 35 Minn. 172, 23 N. W. Rep. 190, cited *supra*, § 1.

G. S. 1878, c. 13, providing for an appeal from supervisors' refusal to lay out a road, to a jury summoned by a justice of the peace, is not in conflict with this section. *State v. Rapp*, 39 Minn. 65, 38 N. W. Rep. 926.

The costs of prosecution are not part of the "fine." *State v. Larson*, 40 Minn. 63, 41 N. W. Rep. 363.

A municipal court has no jurisdiction to try a case for violation of a city ordinance where the prescribed punishment may exceed the limit referred to in this section. *State v. West*, 42 Minn. 147, 43 N. W. Rep. 845.

See *State v. Brown*, cited § 7, *supra*.

Sp. Laws 1891, c. 125, providing for the election of justices of the peace in the city of Minneapolis, and forbidding justices outside to issue process to be served inside the city is not obnoxious to this section. *Smith v. Victorin*, 54 Minn. 338, 56 N. W. Rep. 47.

### Sec. 9. Judges other than those provided for by the constitution.

All judges other than those provided for in this constitution, shall be elected by the electors of the judicial district, county or city, for which they shall be created, not for a longer term than seven years.

See *Carson v. Smith*, cited in note to art. 6, § 1, *supra*.

### Sec. 10. Vacancy in office.

In case the office of any judge shall become vacant before the expiration of the regular term for which he was elected, the vacancy shall be filled by appointment by the governor until a successor is elected and qualified. And such successor shall be elected at the first annual election that occurs more than thirty days after the vacancy shall have happened.

The election provided for in the last clause is one which becomes necessary by reason of the happening of a vacancy. The clause has no control over elections of judges in the ordinary course. *State v. Black*, 22 Minn. 336.

In estimating the period of "thirty days" mentioned in this section, neither the day of the happening of the vacancy, nor the day of election, is to be included. *State v. Brown*, 22 Minn. 482.

See also *Crowell v. Lambert*, cited in note to section 7, *supra*.

### Sec. 11. Prohibition to justices of the supreme and district courts.

The justices of the supreme court and the district courts shall hold no office under the United States, nor any other office under this state. And all votes for either of them for any elective office under this constitution, except a judicial office, given by the legislature or the people, during their continuance in office, shall be void.

### Sec. 12. Change of judicial districts.

The legislature may at any time change the number of judicial districts or their boundaries, when it shall be deemed expedient, but no such change shall vacate the office of any judge.

### Sec. 13. Clerk of district courts.

There shall be elected in each county where a district court shall be held, one clerk of said court, whose qualifications, duties and compensation shall be prescribed by law, and whose term of office shall be four years.

"Shall be prescribed by law," includes common as well as statute law. *Walter v. Greenwood*, 29 Minn. 87, 12 N. W. Rep. 145.

The holder of a certificate of election, as clerk of the district court, is entitled to the possession of the office, on *mandamus*, as the court will not, in such proceeding, try the question of his eligibility. *State v. Sherwood*, 15 Minn. 221, (Gil. 172.)

Effect of the amendments of 1883 (Laws 1883, c. 2) on the term of office of the clerk. *O'Leary v. Steward*, 46 Minn. 126, 48 N. W. Rep. 603.

Art 6 §11  
63-M - 151  
65-NW 264

Art 6 §13  
64-M - 207

Sec. 13 89-M : 274

# MINNESOTA STATUTES 1894

## Sec. 14. Legal pleadings and proceedings.

Legal pleadings and proceedings in the courts of this state shall be under the direction of the legislature. The style of all process shall be "The state of Minnesota," and all indictments shall conclude "against the peace and dignity of the state of Minnesota."

The provision prescribing the style of process includes all such writs, original, mesne, or final, by which the authority of the state is exerted in obtaining jurisdiction over the person or property of the citizens, and which require the exercise of the sovereign power for their enforcement. *Hinkley v. St. Anthony Falls W. P. Co.*, 9 Minn. 55, (Gil. 44.)

A district court summons is not process required to run in the name of the state. *Hanna v. Russell*, 12 Minn. 80, (Gil. 43.); *Lowry v. Harris*, Id. 255, (Gil. 166.)

A summons after the address to the defendant, proceeded: "You are hereby summoned and required, in the name of the state of Minnesota, to answer." Held sufficient. *Cleland v. Tavernier*, 11 Minn. 194, (Gil. 126.)

That an execution does not run in the name of the state is a defect of form only, which does not make it void. *Thompson v. Bickford*, 19 Minn. 17, (Gil. 1.)

## Sec. 15. Court commissioners.

The legislature may provide for the election of one person in each organized county in this state, to be called a court commissioner, with judicial power and jurisdiction not exceeding the power and jurisdiction of a judge of the district court at chambers; or the legislature may, instead of such election, confer such power and jurisdiction upon judges of probate in the state.

The court commissioner has the powers of a judge *at chambers*, but not those of a *district court in vacation*. *Gere v. Weed*, 3 Minn. 352, (Gil. 249;) followed, *Pulver v. Grooves*, 3 Minn. 359, (Gil. 252.)

As to the powers of court commissioners in *habeas corpus* proceedings, see *State v. Hill*, 10 Minn. 63, (Gil. 45.)

Art 6 §15  
66-NW 970

## ARTICLE VII.

### ELECTIVE FRANCHISE.

#### \*Section 1. What persons are entitled to vote.

Every male person of the age of twenty-one years or upwards belonging to either of the following classes, who shall have resided in the United States one year, and in this state for four months next preceding any election, shall be entitled to vote at such election, in the election district of which he shall at the time have been for ten days a resident, for all officers that now are, or hereafter may be, elective by the people.

First. Citizens of the United States.

Second. Persons of foreign birth, who shall have declared their intention to become citizens, conformably to the laws of the United States upon the subject of naturalization.

Third. Persons of mixed white and Indian blood, who have adopted the customs and habits of civilization.

Fourth. Persons of Indian blood residing in this state, who have adopted the language, customs and habits of civilization, after an examination before any district court of the state, in such manner as may be provided by law, and shall have been pronounced by said court capable of enjoying the rights of citizenship within the state.

\*As amended November 3, 1868.

See *State v. Fitzgerald*, 37 Minn. 26, 32 N. W. Rep. 788; *State v. Gurley*, 37 Minn. 475, 35 N. W. Rep. 179.

See, also, note to § 7 of this article.

#### Sec. 2. Persons not entitled to vote.

No person not belonging to one of the classes specified in the preceding section, no person who has been convicted of treason or any felony, unless restored to civil rights, and no person under guardianship or who may be

Art. 7 §1  
95 ch. 3  
62-NW . 259

Art. 7 §1  
60-M - 326

Art 7 §1  
97 p iv

Art 7 §1  
71-M - 317  
73-M - 161

non compos mentis, or insane, shall be entitled or permitted to vote at any election in this state.

**Sec. 3. Residence shall not be lost in certain cases.**

For the purpose of voting, no person shall be deemed to have lost a residence by reason of his absence while employed in the service of the United States; nor while engaged upon the waters of this state or of the United States; nor while a student of any seminary of learning; nor while kept at any alms-house or asylum; nor while confined in any public prison.

**Sec. 4. Persons in army and navy not to acquire residence.**

No soldier, seaman or marine in the army or navy of the United States, shall be deemed a resident of this state, in consequence of being stationed within the same.

**Sec. 5. On election day, freedom from arrest on civil process.**

During the day on which any election shall be held, no person shall be arrested by virtue of any civil process.

**Sec. 6. Elections to be by ballot.**

All elections shall be by ballot, except for such town officers as may be directed by law to be otherwise chosen.

G. S. 1873, c. 1, § 84, providing for numbering of tickets to correspond with the number of the voter on the poll-list, held to violate this section. *Brisbin v. Cleary*, 26 Minn. 107, 1 N. W. Rep. 823.

See, also, *Attorney General v. City of Detroit (Mich.)* 24 N. W. Rep. 837.

**Sec. 7. Eligibility to office.**

Every person who, by the provisions of this article, shall be entitled to vote at any election, shall be eligible to any office which now is, or hereafter shall be, elective by the people in the district wherein he shall have resided thirty days previous to such election, except as otherwise provided in this constitution, or the constitution and laws of the United States.

This provision, and § 1 of this article, did not affect the previous law as to eligibility at the election in October, 1857, at which time the constitution was submitted to the people for adoption. *Territory v. Smith*, 3 Minn. 240, (Gil. 164.)

To be eligible to the office of county attorney, the candidate need not be skilled in the law or admitted to practice. This section deemed unwise. *State v. Clough*, 23 Minn. 17.

A person of foreign birth who has not declared his intention to become a citizen is not entitled to hold office, even though, after election, he declares his intention. *Taylor v. Sullivan*, 45 Minn. 309, 47 N. W. Rep. 802.

A provision of a city charter that the members of the assembly shall reside in certain districts of the city is unconstitutional. *State v. Holman (Minn.)* 59 N. W. Rep. 1006.

**†Sec. 8. Women may vote for school officers.**

The legislature may, notwithstanding anything in this article, provide by law, that any woman at the age of twenty-one years and upward, may vote at any election held for the purpose of choosing any officers of schools, or upon any measure relating to schools, and may also provide that any such woman shall be eligible to hold any office pertaining solely to the management of schools.

† Adopted November 5, 1875.

**\*Sec. 9. Official year—General elections—Time of holding.**

The official year for the state of Minnesota shall commence on the first Monday in January in each year, and all terms of office shall terminate at that time; and the general election shall be held on the first Tuesday after the first Monday in November. The first general election for state and county officers, except judicial officers; after the adoption of this amendment, shall be held in the year A. D. one thousand eight hundred and eighty-four, and thereafter the

\* Added November 6, 1883.

Art. 7 § 7  
59-NW 1006

Art. 7 § 7  
58-M - 225  
60-M - 326

Art. 7

Sec. 7 87-M . 224  
87-M . 309  
59-LRA447

Art. 7 § 8  
97 - 175

Art. 7 § 8  
71-M - 317  
74-M - 112

general election shall be held biennially. All state, county, or other officers elected at any general election, whose term of office would otherwise expire on the first Monday of January, A. D. one thousand eight hundred and eighty-six, shall hold and continue in such offices respectively until the first Monday in January; one thousand eight hundred and eighty-seven.

As to effect of amendment of 1883 on term of office of clerk of district court. *O'Leary v. Steward*, 46 Minn. 126, 48 N. W. Rep. 603.

See *State v. Frizzell*, 31 Minn. 460, 18 N. W. Rep. 316.

## ARTICLE VIII.

### SCHOOL FUNDS, EDUCATION AND SCIENCE.

#### Section 1. Uniform system of public schools.

The stability of a republican form of government depending mainly upon the intelligence of the people, it shall be the duty of the legislature to establish a general and uniform system of public schools.

The school law (Sp. Laws 1869, c. 92) is not in conflict with this section or with § 3 of this article. *Board of Education Sauk Centre v. Moore*, 17 Minn. 412, (Gil. 391.)

Laws 1877, c. 75, "to provide uniform and cheap text-books for the public schools," is not in conflict with this section, nor is it repealed by Laws 1877, c. 74. *Curryer v. Merrill*, 25 Minn. 1.

See *Bank v. Brainerd School Dist.*, 49 Minn. 106, 51 N. W. Rep. 814.

#### Sec. 2. Proceeds of sales of school lands.

The proceeds of such lands as are or hereafter may be granted by the United States for the use of schools, within each township in this state, shall remain a perpetual school fund to the state, and not more than one-third of said lands may be sold in two years, one-third in five years, and one third in ten years; but the lands of the greatest valuation shall be sold first: *provided*, that no portion of said lands shall be sold otherwise than at public sale. The principal of all funds arising from sales, or other disposition of lands or other property, granted or intrusted to this state in each township for educational purposes, shall forever be preserved inviolate and undiminished; and the income arising from the lease or sale of said school land shall be distributed to the different townships throughout the state, in proportion to the number of scholars in each township between the ages of five and twenty-one years, and shall be faithfully applied to the specific objects of the original grants or appropriations.

#### Investment of proceeds of sales of school lands.

Suitable laws shall be enacted by the legislature for the safe investment of the principal of all funds which have heretofore arisen, or which may hereafter arise, from the sale or other disposition of such lands, or the income from such lands accruing in any way before the sale or disposition thereof, in interest bearing bonds of the United States, or of the state of Minnesota, issued after the year one thousand eight hundred and sixty, or of such other state as the legislature may by law from time to time direct.\*

\*This paragraph adopted 1877.

#### Swamp lands to be sold—Disposition of proceeds.

All swamp lands now held by the state, or that may hereafter accrue to the state, shall be appraised and sold in the same manner and by the same officers, and the minimum price shall be the same, less one-third, as is provided by law for the appraisement and sale of the school lands under the provisions of title one of chapter thirty-eight of the General Statutes. The principal of all funds derived from sales of swamp lands, as aforesaid, shall forever be preserved inviolate and undiminished. One-half of the proceeds of said principal shall be appropriated to the common-school fund of the state. The remaining one-

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half shall be appropriated to the educational and charitable institutions of the state, in the relative ratio of cost to support said institutions.†

† This paragraph added November 8, 1881.

## Sec. 3. Public schools in each township in the state.

The legislature shall make such provisions, by taxation or otherwise, as with the income arising from the school fund, will secure a thorough and efficient system of public schools in each township in the state.

## No public money to be used for sectarian schools.

[But in no case shall the moneys derived as aforesaid, or any portion thereof, or any public moneys or property, be appropriated or used for the support of schools wherein the distinctive doctrines, creed or tenets of any particular christian or other religious sect are promulgated or taught.]\*

\* This paragraph adopted November 6, 1877.

See note to § 1 of this article, *supra*.

## Sec. 4. Location of the state university confirmed.

The location of the university of Minnesota, as established by existing laws, is hereby confirmed, and said institution is hereby declared to be the university of the state of Minnesota. All the rights, immunities, franchises, and endowments heretofore granted or conferred, are hereby perpetuated unto the said university, and all lands which may be granted hereafter by congress, or other donations for said university purposes, shall vest in the institution referred to in this section.

## Sec. 5. Loan of permanent school funds—Assessment for repayment.

The permanent school funds of the state may be loaned upon interest at the rate of five per cent. per annum to the several counties or school-districts of the state, to be used in the erection of county or school buildings. No such loan shall be made until approved by a board consisting of the governor, the state auditor, and the state treasurer; who are hereby constituted an investment board for the purpose of the loans hereby authorized; nor shall any such loan be for an amount exceeding three per cent. of the last preceding assessed valuation of the real estate of the county or school-district receiving the same. The state auditor shall annually, at the time of certifying the state tax to the several county auditors, also certify to each auditor to whose county, or to any of the school-districts of whose county, any such loan shall have been made, the tax necessary to be levied to meet the accruing interest or principal of any such loan, and it shall be the duty of every such county auditor forthwith to levy and extend such tax upon all the taxable property of his county, or of the several school-districts, respectively, liable for such loans, (as the case may be,) and in all such cases the tax so assessed shall be fifty per cent. in excess of the amount actually necessary to be raised on account of such accruing principal or interest. It shall be levied, collected, and paid into the county and state treasuries in the same manner as state taxes; and any excess collected over the amount of such principal or interest accruing in any given year shall be credited to the general funds of the respective counties or school-districts. No change of the boundaries of any school-district after the making of any such loan shall operate to withdraw any property from the taxation herein provided for; nor shall any law be passed extending the time of payment of any such principal or interest, or reducing the rate of such interest, or in any manner waiving or impairing any rights of the state in connection with any such loan. Suitable laws, not inconsistent with this amendment, may be passed by the legislature for the purpose of carrying the same into effect.

† Adopted November 2, 1886.

Laws 1887, c. 151 (G. S. 1878, v. 2, c. 123, § 63), enacts "that the canvass of the vote cast upon the submission of the proposed amendment to article eight of the constitution

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of the state of Minnesota, pursuant to the provisions of chapter one of the General Laws of the state of Minnesota for the year eighteen hundred and eighty-five be, and the same is, in all things legalized."

Art. 8 §6  
95 ch. 6

Art 8 §6  
99 - 92

## ARTICLE IX.

Art. 8

### FINANCES OF THE STATE, AND BANKS AND BANKING.

Sec. 6 '05 8

#### \*Section 1. Taxes to be equal—Local improvements—Water tax.

Art. 9 §1  
95 p. 3

All taxes to be raised in this state shall be as nearly equal as may be, and all property on which taxes are to be levied shall have a cash valuation, and be equalized and uniform throughout the state: *provided*, that the legislature may, by general law or special act, authorize municipal corporations to levy assessments for local improvements upon the property fronting upon such improvements, or upon the property to be benefited by such improvements, or both, without regard to a cash valuation, and in such manner as the legislature may prescribe; *and provided, further*, that for the purpose of defraying the expenses of laying water-pipes and supplying any city or municipality with water, the legislature may, by general or special law, authorize any such city or municipality, having a population of five thousand or more, to levy an annual tax or assessment upon the lineal foot of all lands fronting on any water-main or water-pipes laid by such city or municipality within corporate limits of said city, for supplying water to the citizens thereof, without regard to the cash value of such property, and to empower such city to collect any such tax assessments, or fines or penalties for failure to pay the same, or any fine or penalty for any violation of the rules of such city or municipality in regard to the use of water, or for any water-rate due for the same.

56-M . 161  
55-M . 281  
61-NW . 678

[And provided further, that there may be by law levied and collected a tax upon all inheritances, devises, bequests, legacies and gifts of every kind and description above a fixed and specified sum, of any and all natural persons and corporations. Such tax above such exempted sum may be uniform, or it may be graded or progressive, but shall not exceed a maximum tax of five per cent. †]

Art 9 §1  
59-M - 529  
61-M - 542  
63-M - 86  
65-NW 138  
67-NW 997  
68-NW 860

Art 9 §1-15  
97 - 333  
67-NW 68

\*As amended November 8, 1881.

† This proviso was adopted November 6, 1894.

Art 9 §1  
64-M - 292  
66-M - 163  
68-M - 359  
69-M - 175  
73-NW 970  
75-NW 109  
75-NW 210  
75-NW 216  
76-NW 204  
77-NW 40  
77-NW 286

**DECISIONS UNDER ORIGINAL SECTION.** Before the amendment of 1869, it was held that this section was applicable to city assessments for grading streets, and that such assessments must be apportioned upon the basis of cash valuation of the property assessed. An act of the legislature authorizing assessments not according to valuation, but benefits conferred, was held unconstitutional and void. *Stinson v. Smith*, 8 Minn. 366, (Gil. 326;) *Bidwell v. Coleman*, 11 Minn. 78, (Gil. 45.)

Art 9 §1  
71-M - 283  
72-M - 90  
72-M - 222  
72-M - 528  
73-M - 346  
73-M - 428  
74-M - 197  
74-M - 501  
76-M - 104  
76-M - 163  
77-M - 47  
77-M - 437  
79-M - 181  
81-NW 839  
81-NW 177

If taxes imposed are distributed on just principles, applicable alike to all for whose benefit the appropriation is made or intended, substantial equality is attained, and no constitutional right is invaded. *Cover v. Folsom*, 13 Minn. 219, (Gil. 205.)

Equality, as nearly as may be, must be aimed at in every law imposing a tax. The course to be pursued and the means to be used in pursuance of this rule are necessarily left to the discretion of the legislature, and the infraction of the constitution must be palpable before the courts will declare the law unconstitutional. A substantial compliance with this rule by the legislature is all that can be required, but they must in no case run counter to it or disregard it. *Sanborn v. Commissioners Rice Co.*, 9 Minn. 273, (Gil. 258, 261.)

Art. 9 87-M . 224

In the exposition of tax laws under our state constitution, which requires equality and uniformity in the imposition of taxes upon property upon a cash valuation, such a construction must be adopted as will avoid duplicate taxation, unless a contrary interpretation is compelled by some express provision or necessary implication of the statute. *Commissioners Rice Co. v. Citizens Nat. Bank*, 23 Minn. 280.

Sec. 1 '05 . 168  
87-M . 25  
87-M . 146

Chapter 10, Laws 1873, entitled "An act to establish a fund for the foundation and maintenance of an asylum for inebriates," requiring the payment of a license fee of ten dollars for the maintenance and support of such asylum from all dealers in liquors, in addition to all other fees and licenses, is a legitimate exercise of the police power of the

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state, and does not impose an unequal tax, within this section. *State v. Cassidy*, 22 Minn. 312; *State v. Klein*, Id. 328.

In regranteeing the franchises of the St. Paul & S. C. R. Co. it was competent for the legislature to change and modify the terms of the original charter in regard to the payment of a certain per cent. of its gross earnings in lieu of all taxation. Such modification is not prohibited by either § 1 or § 3 of this article. *City of St. Paul v. St. Paul & S. C. R. Co.*, 23 Minn. 469.

Section 30, c. 1, Laws 1860, requiring the county auditor to add fifty per cent. to the assessor's valuation of personal property in case of neglect or failure to list or to swear to the return, is in conflict with this section, and § 3 of this title. *McCormick v. Fitch*, 14 Minn. 252, (Gil. 185.)

Legislature may provide for constructing bridges, and distribute the expense to the counties and towns between which it is constructed. An act so providing is not in conflict with §§ 1-4, art. 9, or § 5, art. 11, of the constitution. *Guilder v. Town of Otsego*, 20 Minn. 74, (Gil. 59.)

Sp. Laws 1870, c. 100, appointing commissioners for the rebuilding of a bridge across Crow river, is not obnoxious to §§ 1-4, inclusive, of this title. *Guilder v. Town of Dayton*, 22 Minn. 366; *Guilder v. Town of Otsego*, 20 Minn. 74, (Gil. 59.)

The levy of a poll tax, under the city charter of Faribault, (Sp. Laws 1872, p. 114, § 8; p. 121, § 3,) is not repugnant to this section, by reason of the exemption of members of fire companies. *City of Faribault v. Misener*, 20 Minn. 396, (Gil. 347.)

Gen. St. 1878, c. 11, § 97, (§ 1610, post.) providing that the purchase money to be refunded to the purchaser at a void tax sale shall be paid out of the county treasury, is not in conflict with this section. *State v. Cronkhite*, 28 Minn. 197, 9 N. W. Rep. 681.

DECISIONS SINCE THE AMENDMENT OF 1869. The amendment was properly adopted by the people. *Dayton v. City of St. Paul*, 22 Minn. 400.

Where authority is conferred on a municipal corporation to provide for the apportionment and assessment of taxes for expenses incurred in "works" of public improvement, the power to tax for such purpose is limited, so that a tax materially greater than the expense is void. *Minnesota Linseed Oil Co. v. Palmer*, 20 Minn. 468, (Gil. 424.) The legislature has power, in matters of local improvement in municipalities, to authorize the common council or board of public works to determine the amount to be raised for such improvement, the property to be assessed therefor, and to apportion such assessment, making it final, except in case of fraud or mistake; following *Rogers v. City of St. Paul*, 22 Minn. 494; *Carpenter v. City of St. Paul*, 23 Minn. 232. The term "local improvements," as used in the amendment of 1869, c. 51, Laws 1869, (Gen. St. 1878, p. 26,) to this section, means improvements in a particular locality, by which the real property adjoining or near such locality is especially benefited, such as the grading, paving, curbing, etc., of streets, though it may be one of the most generally traveled thoroughfares. *Rogers v. City of St. Paul*, 22 Minn. 494. Widening and straightening a street is a local improvement. *Cook v. Slocum*, 27 Minn. 509, 8 N. W. Rep. 755.

Street sprinkling is a "local improvement." *State v. Reis*, 38 Minn. 371, 38 N. W. Rep. 97.

A provision directing the expenses of constructing sidewalks to be assessed against the "lots and parcels adjoining said sidewalks" is not unconstitutional. *Scott Co. v. Hinds*, 50 Minn. 204, 52 N. W. Rep. 523.

A charter making an abutting property owner liable to a traveler injured by a defective sidewalk is invalid, not being within the taxing power. *Noonan v. City of Stillwater*, 33 Minn. 198, 22 N. W. Rep. 444. But the expense of building and maintaining may be imposed on the property owners. *Id.*

While only "municipal corporations" may levy assessments for local improvements, such levy may be made in behalf of the corporation by its authorized agents,—in this case, a board of park commissioners. *State v. District Court Hennepin Co.*, 33 Minn. 235, 22 N. W. Rep. 625. The requirement of equality applies to local assessments. Discretion of the legislature in providing means to secure equality. An act is not void because inequality *may*, but only where it *will*, result. *Id.* Sp. Laws 1883, c. 281, creating a board of park commissioners in Minneapolis, is not unconstitutional, the board not being a municipal corporation, *Id.*; nor because it authorizes the purchase of lands at any agreed price, part of which is the exemption of the owner's remaining land from assessment, *Id.*; nor because its taking effect was left to the vote of the city, *Id.*

See, further, as to assessments on property benefited, *Spencer v. Merchant*, (N. Y.) 3 N. E. Rep. 682; *County of Hennepin v. Bartleson*, 37 Minn. 343, 34 N. W. Rep. 222.

A law authorizing counties to make assessments for local improvements is constitutional. *In re Dowlan*, 36 Minn. 430, 31 N. W. Rep. 517.

Certain exemptions in favor of railroad companies held not unconstitutional. See *In re County of Stevens*, 36 Minn. 467, 31 N. W. Rep. 942.

See, further, as to equal taxation, *State v. Graham*, (Neb.) 22 N. W. Rep. 114; *Central Iowa Ry. Co. v. Supervisors*, (Iowa,) 25 N. W. Rep. 128.

All property not exempt by the constitution must be taxed. Laws 1866, c. 3, as amended by Laws 1867, c. 49, allowing certain exemptions to soldiers and their fami-



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lies; held unconstitutional. *Le Duc v. City of Hastings*, 39 Minn: 110, 38 N. W. Rep. 803.

An exemption not permitted by the constitution cannot be affected by indirection by releasing or refunding the taxes after they have been levied. *Id.*

A statute requiring, as a condition precedent for probate proceedings, the payment to the county treasurer of specified sums arbitrarily prescribed with reference to the value of the estates, is contrary to this section. *State v. Gorman*, 40 Minn. 232, 41 N. W. Rep. 948.

In Laws 1881, c. 5, amending G. S. 1878, c. 11, § 113 (§ 1631, post), providing for assessment of taxes omitted in previous years, the provision adding back interest and penalties is invalid. *County of Redwood v. Winona & St. P. Land Co.*, 40 Minn. 512, 41 N. W. Rep. 465.

An act authorizing the boards of county commissioners to issue bonds in an unequal amount for the construction of a bridge and to levy a tax in such townships and portions thereof as shall be benefited is not repugnant to this section. *Maltby v. Tantges*, 50 Minn. 248, 52 N. W. Rep. 858.

Laws 1889, c. 246 (§ 444 et seq., post), providing for the inspection of illuminating oils in tank cars, and prescribing for such inspection a fee for each 50 gallons, is, on its face, a good police regulation, and not a law levying a tax. *Willis v. Standard Oil Co.*, 50 Minn. 290, 52 N. W. Rep. 652.

## Sec. 2. Annual tax for ordinary expenses.

The legislature shall provide for an annual tax sufficient to defray the estimated [ordinary] expenses of the state for each year; and whenever it shall happen that such ordinary expenses of the state for any year shall exceed the income of the state for such year, the legislature shall provide for levying a tax for the ensuing year sufficient, with other sources of income, to pay the deficiency of the preceding year, together with the estimated expenses of such ensuing year.

Art 9 §2  
69-M - 187  
72-NW 65

## Minnesota state railroad bonds.

[But no law levying a tax, or making other provisions for the payment of interest or principal of the bonds denominated "Minnesota state railroad bonds," shall take effect or be in force until such law shall have been submitted to a vote of the people of the state, and adopted by a majority of the electors of the state voting upon the same.]\*

\*The word and clause in brackets were adopted November 6, 1860.

The amendment to this section, restricting the power of the legislature to provide for payment of the Minnesota state railway bonds, adopted November 6, 1860, is invalid as impairing the obligation of contracts, by impairing the bondholder's remedy. *State v. Young*, 29 Minn. 474, 9 N. W. Rep. 737.

An act authorizing the issue of municipal bonds to aid in improving a private water power is unconstitutional. *Coates v. Campbell*, 37 Minn. 498, 35 N. W. Rep. 366.

A statute authorizing a certain town to raise by taxation a sum to pay bounties to soldiers of the civil war held to be for a private purpose, and void. *Mead v. Inhabitants of Acton*, (Mass.) 1 N. E. Rep. 413.

## †Sec. 3. Property subject to taxation.

Laws shall be passed taxing all moneys, credits, investments in bonds, stocks, joint-stock companies, or otherwise, and also all real and personal property, according to its true value in money; but public burying-grounds, public school-houses, public hospitals, academies, colleges, universities and all seminaries of learning, all churches, church property used for religious purposes, and houses of worship, institutions of purely public charity, public property used exclusively for any public purpose, and personal property to an amount not exceeding in value two hundred dollars for each individual, shall, by general laws, be exempt from taxation.

†Amendment proposed by c. 2, Laws 1891, was not adopted. Laws 1893, p. 2.

This section must be construed in connection with §§ 1, 2, and 4 of this article, and in view of the condition of things at the time of the adoption of the constitution. *Commissioners Rice Co. v. Citizens' Nat. Bank*, 23 Minn. 280.

No tax can be assessed upon the personal property of non-residents, except upon goods, wares, and merchandise kept for sale, stock employed in mechanic arts, and capital and machinery employed in any branch of manufacture or other business. *City of St. Paul v. Merritt*, 7 Minn. 253. (Gil. 193.) Personal property owned by a non-resident, sent into the state to be sold here, is taxable here. *McCormick v. Fitch*, 14 Minn. 252, (Gil. 185.)

The legislature has authority to pass laws for taxing shares in national banks in the

Art 9 §3  
56-M - 161

Art 9 §3  
62-M - 183  
63-M - 80  
64-NW 379  
65-NW 138

Art 9 §3  
64-M - 292  
75-NW 210  
75-NW 216  
76-NW 204  
77-NW 40

Art 9 §3  
72-M - 222  
73-M - 343  
73-M - 423  
74-M - 197  
77-M - 437

Sec. 3 87-M - 165  
90-M - 92

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manner prescribed by act of congress of June 3, 1864. *Smith v. Webb*, 11 Minn. 500, (Gil. 378.)

The five-million loan amendment to the constitution is a particular provision as to a particular subject-matter, and within its own sphere, so far as that subject-matter is concerned, is supreme, and its effect cannot be controlled by the general provisions of this section, that "laws shall be passed taxing \* \* \* all real and personal property at its true value in money." *State v. Winona & St. P. R. Co.*, 21 Minn. 315.

An exemption from taxation in a charter granted prior to the constitution is not affected by §§ 1 and 3 of this title. *City of St. Paul v. St. Paul & S. C. R. Co.*, 23 Minn. 469, 474.

An exemption of university property by the territorial legislature is binding, notwithstanding this section. *County of Nobles v. Hamline University*, 46 Minn. 316, 43 N. W. Rep. 1119.

The Cottage Hospital, of Minneapolis, is an institution of purely public charity, within the exemption of such institutions from taxation. *County of Hennepin v. Brotherhood of Gethsemane*, 27 Minn. 460, 8 N. W. Rep. 595. A parochial school is an institution of purely public charity, and as such exempt from taxation, *County of Hennepin v. Grace*, 27 Minn. 503, 8 N. W. Rep. 761; but a parsonage is not exempt. *Id.* A parsonage or rectory belonging to a church is not exempt from taxation. *St. Peter's Church, Shakopee v. County of Scott*, 12 Minn. 395, (Gil. 280.)

A rectory or parsonage is not exempt because some part of it is used for religious services. *County of Ramsey v. Church of Good Shepherd*, 45 Minn. 229, 47 N. W. Rep. 783.

The levy of a poll-tax, under city charter of Faribault, (Sp. Laws 1872, p. 114, § 8; p. 121, § 3.) is not repugnant to this section by reason of the exemption of members of fire companies. *City of Faribault v. Misener*, 20 Minn. 396, (Gil. 347.)

The exemption extends to houses situated on the grounds of a college, and occupied by the faculty as residences, but not to adjoining unimproved land destined for future use. *Ramsey County v. Macalester College*, 51 Minn. 437, 53 N. W. Rep. 704.

The purpose of the exemption includes a seminary for young ladies, owned by a private person, with necessary furniture and apparatus. *Ramsey County v. Stryker Seminary*, 52 Minn. 144, 53 N. W. Rep. 1133. See *County of Hennepin v. Bell*, 43 Minn. 344, 45 N. W. Rep. 615.

## Sec. 4. Property of banks subject to taxation.

Laws shall be passed for taxing the notes and bills discounted or purchased, moneys loaned, and all other property, effects or dues of every description, of all banks, and of all bankers, so that all property employed in banking shall always be subject to a taxation equal to that imposed on the property of individuals.

## \*Sec. 5. Public debt may be contracted.

For the purpose of defraying extraordinary expenditures, the state may contract public debts, but such debts shall never, in the aggregate, exceed two hundred and fifty thousand dollars; every such debt shall be authorized by law, for some single object, to be distinctly specified therein; and no such law shall take effect until it shall have been passed by the vote of two-thirds of the members of each branch of the legislature, to be recorded by the yeas and nays on the journals of each house respectively; and every such law shall levy a tax annually sufficient to pay the annual interest of such debt, and also a tax sufficient to pay the principal of such debt within ten years from the final passage of such law, and shall specially appropriate the proceeds of such taxes to the payment of such principal and interest; and such appropriation and taxes shall not be repealed, postponed or diminished until the principal and interest of such debt shall have been wholly paid. The state shall never contract any debts for works of internal improvement, or be a party in carrying on such works, except in cases where grants of land or other property shall have been made to the state, especially dedicated by the grant to specific purposes; and in such cases the state shall devote thereto the avails of such grants, and may pledge or appropriate the revenues derived from such works in aid of their completion.

\*Amended April 15, 1858. See *post*, p. cix.

Neither this section, nor § 6 or § 10 of this article, prohibit the bonding of cities in aid of railroads. The inhibition is upon the state only. *Davidson v. Commissioners Ramsey county*, 18 Minn. 482, (Gil. 432, 442.)

An act providing for the purchase of a site and the erection of a state elevator for public storage of grain violates this section. *Rippe v. Becker* (Minn.) 57 N. W. Rep. 331.

Art. 9 § 5  
56-M . 107

Art 9 § 5  
69-M - 187  
72-NW 65

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## Sec. 6. Public debt, how contracted.

All debts authorized by the preceding section shall be contracted by loan on state bonds of amounts not less than five hundred dollars each, on interest, payable within ten years after the final passage of the law authorizing such debt; and such bonds shall not be sold by the state under par. A correct registry of all such bonds shall be kept by the treasurer, in numerical order, so as always to exhibit the number and amount unpaid, and to whom severally made payable.

Art 9 §6  
69-M - 187  
72-NW 65

## Sec. 7. Public debt.

The state shall never contract any public debt, unless in time of war, to repel invasion or suppress insurrection, except in the cases and in the manner provided in the fifth and sixth sections of this article.

Art 9 §7  
69-M - 187  
72-NW 65

## Sec. 8. Appropriation of money received from loan or state bonds.

The money arising from any loan made, or debt or liability contracted, shall be applied to the object specified in the act authorizing such debt or liability, or to the repayment of such debt or liability, and to no other purpose whatever.

Art 9 §8  
69-M - 187  
72-NW 65

## Sec. 9. Payment of money out of the treasury.

No money shall ever be paid out of the treasury of this state, except in pursuance of an appropriation by law.

Art 9 §9  
69-M - 191

## Sec. 10. Loan of state credit—Expunging amendment.

The credit of the state shall never be given or loaned in aid of any individual association or corporation: [Nor shall there be any further issue of bonds denominated "Minnesota State Railroad Bonds," under what purports to be an amendment to section ten of article nine of the constitution, adopted April fifteenth, eighteen hundred and fifty-eight, which is hereby expunged from the constitution, saving, excepting and reserving to the state, nevertheless, all rights, remedies and forfeitures accruing under said amendment.]\*

Art 9 §10  
73-M - 430  
75-M - 122

\*The clause in brackets was adopted November 6, 1860.

Under the amendment adopted April 15, 1858, the state was not entitled to any priority of lien in reference to the railroad bonds to be deposited with the state treasurer, over other bonds of the same issue held by or issued to individuals. *Minnesota & Pac. R. Co. v. Sibley*, 2 Minn. 13, (Gil. 1.) See, also, *Chamberlain v. Sibley*, 4 Minn. 309, (Gil. 223); *Huff v. Winona & St. P. R. Co.*, 11 Minn. 180, (Gil. 114.)

## Sec. 11. Receipts and expenditures of the state.

There shall be published by the treasurer, in at least one newspaper printed at the seat of government, during the first week of January in each year, and in the next volume of the acts of the legislature, detailed statements of all moneys drawn from the treasury during the preceding year, for what purposes and to whom paid, and by what law authorized, and also of all moneys received, and by what authority, and from whom.

Art 9 §11  
69-M - 191  
72-NW 66

## Sec. 12. Safe-keeping and disbursement of state and school funds.

Suitable laws shall be passed by the legislature for the safe-keeping, transfer and disbursement of the state and school funds; and all officers and other persons charged with the same or any part of the same, or the safe-keeping thereof, shall be required to give ample security for all moneys and funds of any kind received by them, to make forthwith and keep an accurate entry of each sum received and of each payment and transfer; and if any of said officers or other persons shall convert to his own use in any manner or form, or shall loan with or without interest, or shall deposit in his own name or otherwise than in the name of the state of Minnesota, or shall deposit in banks or with any person or persons, or exchange for [other] funds or property, any portion of the funds of the state or of the school funds aforesaid, except in the manner prescribed by law, every such act shall be and constitute an embezzlement of so much of the aforesaid state and school

Art 9 §12  
69-NW 3

Art 9 §12  
66-M - 302

†As amended November 4, 1873.

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funds, or either of the same, as shall be thus taken, or loaned, or deposited, or exchanged, and shall be a felony; and any failure to pay over, or produce, or account for, the state or school funds, or any part of the same, entrusted to such officer or person, as by law required, on demand, shall be held and taken to be prima facie evidence of such embezzlement.

That part of the act of March 10, 1873, entitled "An act to amend Gen. St. c. 8, § 131 [see § 723, post], relating to the duties of county treasurers, and the care of the public funds," which provides for a deposit in banks, by the county treasurers of the funds in the county treasuries, is constitutional and valid, and applies to all the funds in such treasuries. *First Nat. Bank of Stillwater v. Shepard*, 22 Minn. 196.

What constitutes embezzlement under this section, without any further legislation, see *State v. Munch*, 22 Minn. 67, 71, 75.

### Sec. 13. Provisions and restrictions for a banking law.

The legislature may, by a two-thirds vote, pass a general banking law, with the following restrictions and requirements, viz.:

First—The legislature shall have no power to pass any law sanctioning in any manner, directly or indirectly, the suspension of specie payments by any person, association or corporation issuing bank notes of any description.

Second—The legislature shall provide by law for the registry of all bills or notes issued or put in circulation as money, and shall require ample security in United States stock or state stocks for the redemption of the same in specie; and in case of a depreciation of said stocks, or any part thereof, to the amount of ten per cent. or more on the dollar, the bank or banks owning said stocks shall be required to make up said deficiency by additional stocks.

Third—The stockholders in any corporation and joint association for banking purposes issuing bank notes shall be individually liable in an amount equal to double the amount of stock owned by them for all the debts of such corporation or association; and such individual liability shall continue for one year after any transfer or sale of stock by any stockholder or stockholders.

Fourth—In case of the insolvency of any bank or banking association, the bill-holders thereof shall be entitled to preference in payment over all other creditors of such bank or association.

Fifth—Any general banking law which may be passed in accordance with this article, shall provide for recording the names of all stockholders in such corporations, the amount of stock held by each, the time of transfer, and to whom transferred.

An enactment imposing an individual liability for corporate debts upon the stockholders of a bank becoming thereafter organized, though not organized for the purpose of issuing notes to circulate as currency, is not repugnant to the constitution. *Allen v. Walsh*, 25 Minn. 543.

### \*Sec. 14a. State debt for public buildings.

For the purpose of erecting and completing buildings for a hospital for the insane, a deaf, dumb and blind asylum, and state prison, the legislature may by law increase the public debt of the state, to an amount not exceeding two hundred and fifty thousand dollars, in addition to the public debt already heretofore authorized by the constitution; and for that purpose may provide by law for issuing and negotiating the bonds of the state, and appropriate the money only for the purpose aforesaid; which bonds shall be payable in not less than ten nor more than thirty years from the date of the same, at the option of the state.

\*Adopted November 5, 1872.

### †Sec. 14b. Municipal debts in aid of railroads.

The legislature shall not authorize any county, township, city, or other municipal corporation to issue bonds or to become indebted in any manner to aid in the construction or equipment of any or all railroads to any amount that shall exceed ten per centum of the value of the taxable property within such county, township, city, or other municipal corporation; the amount of such taxable property, to be ascertained and determined by the last assess-

†Adopted November 5, 1872.

Art 9 §13

62-M - 501  
65-NW 78  
65-NW 632

Art 9 §13

70-M - 358  
70-M - 375  
73-NW 171  
75-NW 380

Art 9 §13

72-M - 266  
79-M - 211  
81-NW1059

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ment of said property made for the purpose of state and county taxation previous to the incurring of such indebtedness.

This amendment is not retrospective, and had no effect upon legislation passed prior to its adoption authorizing the issuance of such bonds. *State v. Town of Clark*, 23 Minn. 422.

The limitation of municipal aid to railways, to ten per cent. of the assessed valuation of the municipality, held not exceeded. *Coe v. Caledonia & Miss. Ry. Co.*, 27 Minn. 197, 6 N. W. Rep. 621.

## †Sec. 15. Municipal indebtedness for railroads.

The legislature shall not authorize any county, township, city, or other municipal corporation to issue bonds, or to become indebted in any manner, to aid in the construction or equipment of any or all railroads to any amount that shall exceed five per centum of the value of the taxable property within such county, township, city, or other municipal corporation; the amount of such taxable property to be ascertained and determined by the last assessment of said property made, for the purpose of state and county taxation, previous to the incurring of such indebtedness.

†Adopted November 4, 1879.

Art 9 §16  
95 ch. 7

## ARTICLE X.

### OF CORPORATIONS HAVING NO BANKING PRIVILEGES.

Art. 9  
Sec. 16 '05 . 212

#### Section 1. Of corporations and their powers.

The term "corporations," as used in this article, shall be construed to include all associations and joint-stock companies having any of the powers and privileges not possessed by individuals or partnerships, except such as embrace banking privileges; and all corporations shall have the right to sue, and shall be liable to be sued, in all courts in like manner as natural persons.

Art 10 §1  
62-M - 501  
65-NW 78  
65-NW 632

#### Sec. 2. Not to be formed under special acts.

No corporations shall be formed under special acts, except for municipal purposes.

Art 10 §2  
73-M - 526

See amendment to § 33, art. 4.

For the reason of the clause "except for municipal purposes," see *Tierney v. Dodge*, 9 Minn. 166, (Gil. 153, 158.); *City of St. Paul v. Colter*, 12 Minn. 41, (Gil. 16.)

Chapter 92, Sp. Laws 1869, incorporating the board of education of Sauk Centre, is not in conflict with this section. *Board of Education Sauk Centre v. Moore*, 17 Minn. 412, (Gil. 391.)

Extending the duration of an existing corporation is not the creation of a new one. *Cotton v. Mississippi & R. R. Boom Corp.*, 22 Minn. 372.

An act of the state legislature, enlarging the territorial limits, within which the franchise to establish and operate a ferry granted by the territorial legislature may be exercised, is not in conflict with this section. *McRoberts v. Washburne*, 10 Minn. 23, (Gil. 8.)

The act of March 8, 1861, amending the charter of the Nebraska & Lake Superior Railroad Company, is not repugnant to this section, as creating a new corporation. *Ames v. Lake Superior, etc., R. Co.*, 21 Minn. 241, 282, 283; followed, *Green v. Knife Falls Boom Corp.*, 35 Minn. 155, 27 N. W. Rep. 924. See, also, *First Div. St. P., etc., R. Co. v. Farcher*, 14 Minn. 297, (Gil. 224.)

#### Sec. 3. Liabilities of stockholders.

Each stockholder in any corporation, [excepting those organized for the purpose of carrying on any kind of manufacturing or mechanical business,] shall be liable to the amount of stock held or owned by him.\*

\* The clause in brackets was adopted November 5, 1872.

Art 10 §3  
56-M . 422  
56-M . 420  
61-NW . 602  
59-NW . 997

Sufficiency of the complaint in an action to charge stockholders under this section. *Dodge v. Minnesota Plastic Slate Roofing Co.*, 16 Minn. 368, (Gil. 327.)

See *Allen v. Walsh*, cited in note to art. 9, § 13, *supra*.

As to what corporations are within the exception. *Arthur v. Willius*, 44 Minn. 409, 46 N. W. Rep. 851.

This section is self-executing, and creates an individual liability on the part of the stockholder to an amount equal to the amount of stock held or owned by him. *Wil-*

Art 10 §3  
61-M - 389  
62-M - 448  
62-M - 501  
64-NW1143  
65-NW 78  
65-NW 632

Art 10 §3  
71-M - 413  
72-M - 431  
73-M - 517  
73-M - 459

68-NW 48  
69-NW 217  
Art 10 §3

lis v. Mabon, 48 Minn. 140, 50 N. W. Rep. 1110; McKusick v. Seymour, Sabin & Co., 48 Minn. 158, 50 N. W. Rep. 1114.

See, also, State v. Minnesota Thresher Manuf'g Co., 40 Minn. 213, 41 N. W. Rep. 1020; Mohr v. Minnesota Elevator Co., 40 Minn. 343, 41 N. W. Rep. 1074; Arthur v. Willius, supra; Densmore v. Shepard, 46 Minn. 54, 45 N. W. Rep. 523, 681; National German-American Bank v. Tapley (Minn.) 57 N. W. Rep. 1065.

**Sec. 4. Lands taken for public way.**

Lands may be taken for public way, for the purpose of granting to any corporation the franchise of way for public use. In all cases, however, a fair and equitable compensation shall be paid for such land, and the damages arising from the taking of the same; but all corporations being common carriers, enjoying the right of way in pursuance of the provisions of this section, shall be bound to carry the mineral, agricultural and other productions or manufactures on equal and reasonable terms.

This section does not confine the exercise of a right of eminent domain to the procuring of a mere right of way. Cotton v. Mississippi & R. R. Boom Corp., 22 Minn. 372.

Sec. 13, c. 1, Extra Sess. Laws 1857, providing that in condemnation proceedings under such chapter the railroad company should acquire an absolute fee-simple in the lands condemned, instead of an easement merely, is not void; but, if affected at all by this section, would be limited and qualified only thereby. Scott v. St. Paul & C. Ry. Co., 21 Minn. 322.

As to the meaning of the term "compensation," as rules for ascertaining the amount, see Winona & St. P. R. Co. v. Denman, 10 Minn. 267, 280, (Gil. 203, 219;) Same v. Waldron, 11 Minn. 515, 539, 542, (Gil. 392, 414, 417.)

See note to art. 1, § 13, supra.

**ARTICLE XI.**

**COUNTIES AND TOWNSHIPS.**

**Section 1. Counties, county lines, and county seats.**

The legislature may, from time to time, establish and organize new counties, but no new county shall contain less than four hundred square miles; nor shall any county be reduced below that amount; and all laws changing county lines in counties already organized, or for removing county seats, shall, before taking effect, be submitted to the electors of the county or counties to be affected thereby, at the next general election after the passage thereof and be adopted by a majority of such electors. Counties now established may be enlarged, but not reduced below four hundred square miles.

Legislative power over counties is supreme, except as restrained by the constitution, either expressly or by necessary implication. State v. McFadden, 23 Minn. 40.

Not only the constitution, but the statutes both before and since, recognize a distinction between "organized" and "established" counties. State v. Parker, 25 Minn. 215, 219.

So far as it relates to the removal of county-seats, this section is abrogated by §§ 33 and 34 of art. 4, supra. Nichols v. Walter, 37 Minn. 264, 33 N. W. Rep. 800; Weber v. Timlin, 37 Minn. 274, 34 N. W. Rep. 29; Todd v. Rustad, 43 Minn. 500, 46 N. W. Rep. 73.

The provision requiring the laws for removal of a county-seat to be approved by a majority of the electors means a majority of the electors voting at the election at which such law is submitted. Taylor v. Taylor, 10 Minn. 107, (Gil. 81;) Bayard v. Klinge, 16 Minn. 249, (Gil. 221;) Everett v. Smith, 22 Minn. 53; Dayton v. City of St. Paul, 22 Minn. 400, 403.

A change of a county-seat can be effected only by an act of the legislature providing for the change, upon the proposition being approved by the people of the county. The act of March 18, 1858, providing the mode of changing county-seats, is unconstitutional. Roos v. State, 6 Minn. 423, (Gil. 291.)

**Sec. 2. Organization of cities into counties.**

The legislature may organize any city into a separate county when it has attained a population of twenty thousand inhabitants, without reference to geographical extent, when a majority of the electors of the county in which such city may be situated, voting thereon, shall be in favor of a separate organization.

This section contrasted with § 1 as to what will constitute a constitutional majority of votes. Taylor v. Taylor, 10 Minn. 107, (Gil. 81, 99;) Bayard v. Klinge, 16 Minn. 249, (Gil. 221, 227.)

Art 11 §1  
68-NW 767

Art 11 §1  
64-M - 381  
66-M - 33  
66-M - 519  
66-M - 538

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## Sec. 3. Organization of townships.

Laws may be passed providing for the organization, for municipal and other town purposes, of any congressional or fractional townships in the several counties in the state: provided, that when a township is divided by county lines, or does not contain one hundred inhabitants, it may be attached to one or more adjoining townships or parts of townships, for the purposes aforesaid.

Cited State v. Mantor, 14 Minn. 437, (Gil. 327.)

## Sec. 4. Election of county and township officers.

Provision shall be made by law for the election of such county or township officers as may be necessary.

This section is satisfied if provision is made for the election of such officers at stated periods, unless they are fixed at times designed substantially to destroy the elective character of the office. State v. Benedict, 15 Minn. 198, (Gil. 153.)

It was not violated by a provision in an act, providing for the appointment of a county officer, that the appointee should hold till January 1, 1871, as it does not raise a presumption of a design to deprive the office of its elective character. Id.

See State v. Fitzgerald, 37 Minn. 26, 33 N. W. Rep. 788; State v. Gurley, 37 Minn. 475, 35 N. W. Rep. 179.

Art 11 §4  
76-NW1018

Art 11 §4  
74-M - 55

## Sec. 5. Local taxation.

Any county and township organization shall have such powers of local taxation as may be prescribed by law.

This section does not invalidate the bonding of cities in aid of railroads. Davidson v. Commissioners Ramsey Co., 18 Minn. 482, 494, (Gil. 432, 442.)

An act providing for the construction of a bridge across a stream, the boundary line between two counties and between two towns, and distributing the expense in certain proportions between the two counties and two towns, is not in conflict with this section. Guilder v. Town of Otsego, 20 Minn. 74, (Gil. 59.) See, also, Guilder v. Town of Dayton, 22 Minn. 366, 369.

No class of persons but the electors of a town, and the officers chosen by them, can determine the action of the town on questions (such as the issuance of bonds in aid of a railway,) involving local taxation. Laws 1877, c. 106, § 7, (Gen. St. 1878, c. 34, § 98,) held invalid, because it assumes to vest this power in a majority of the resident taxpayers, whether electors or not. Harrington v. Town of Plainview, 27 Minn. 224, 6 N. W. Rep. 777.

## Sec. 6. Money in county or township treasuries.

No money shall be drawn from any county or township treasury except by authority of law.

## \*Sec. 7. County of Manomin.

That the county of Manomin is hereby abolished and that the territory heretofore comprising the same shall constitute and be a part of the county of Anoka.

\*Adopted November 2, 1869.

## ARTICLE XII.

### OF THE MILITIA.

## Section 1. Militia organization.

It shall be the duty of the legislature to pass such laws for the organization, discipline and service of the militia of the state as may be deemed necessary.

## ARTICLE XIII.

### IMPEACHMENT AND REMOVAL FROM OFFICE.

## Section 1. Impeachment and removal from office.

The governor, secretary of state, treasurer, auditor, attorney general, and the judges of the supreme and district courts, may be impeached for corrupt

Art 13 §1  
75-NW 212

Art 13 §1  
72-M - 211

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conduct in office, or for crimes and misdemeanors, but judgment in such cases shall not extend further than to removal from office, and disqualification to hold and enjoy any office of honor, trust or profit, in this state. The party convicted thereof shall nevertheless be liable and subject to indictment, trial, judgment and punishment, according to law.

## Sec. 2. Removal from office.

The legislature of this state may provide for the removal of inferior officers from office, for malfeasance or nonfeasance in the performance of their duties.

Laws 1881, c. 108 (§ 904 et seq., post), providing for the suspension and removal of county treasurers by the governor, is constitutional. *State v. Peterson*, 50 Minn. 239, 52 N. W. Rep. 655.

The president of the city council of Minneapolis is not an "officer" of the city, within this section. *State v. Kuchli*, 53 Minn. 147, 54 N. W. Rep. 1069.

See *State v. Benedict*, 15 Minn. 198, (Gil. 153, 157.)

## Sec. 3. Disability pending impeachment.

No officer shall exercise the duties of his office after he shall have been impeached and before his acquittal.

## Sec. 4. Trial of the governor.

On the trial of an impeachment against the governor, the lieutenant governor shall not act as a member of the court.

## Sec. 5. Service of copy of articles.

No person shall be tried on impeachment before he shall have been served with a copy thereof, at least twenty days previous to the day set for trial.

## ARTICLE XIV.

### AMENDMENTS TO THE CONSTITUTION.

#### Section 1. Amendments to the constitution.

Whenever a majority of both houses of the legislature shall deem it necessary to alter or amend this constitution, they may propose such alterations or amendments, which proposed amendments shall be published with the laws which have been passed at the same session, and said amendments shall be submitted to the people for their approval or rejection; and if it shall appear in a manner to be provided by law, that a majority of voters present and voting shall have ratified such alterations or amendments, the same shall be valid to all intents and purposes, as a part of this constitution. If two or more alterations or amendments shall be submitted at the same time, it shall be so regulated that the voters shall vote for or against each separately.

An amendment proposed for ratification is ratified if it receives a majority of all the votes in its favor, though it be less than a majority of the votes cast at an election for other purposes, held at the same time and place. *Dayton v. City of St. Paul*, 22 Minn. 400. See, also, *Taylor v. Taylor*, 10 Minn. 107, (Gil. 81.)

Distinct propositions in one amendment, see *State v. Timme*, 54 Wis. 318, 11 N. W. Rep. 785.

Authentication—Variance between amendment as proposed and as adopted. See *Koehler v. Hill*, 60 Iowa, 543, 14 N. W. Rep. 738, 15 N. W. Rep. 609.

See, generally, *State v. Babcock*, (Neb.) 22 N. W. Rep. 372; *Koehler v. Hill*, (Iowa,) 14 N. W. Rep. 738; *McMillan v. Blattner*, (Iowa,) 25 N. W. Rep. 245.

#### Sec. 2. Constitutional convention.

Whenever two-thirds of the members elected to each branch of the legislature shall think it necessary to call a convention to revise this constitution, they shall recommend to the electors to vote, at the next election for members of the legislature, for or against a convention; and if a majority of all the electors voting at said election shall have voted for a convention, the legislature shall, at their next session, provide by law for calling the same. The convention shall consist of as many members as the house of representatives,

Art 13 §3  
75-NW 212

Art 13 §3  
72-M - 211

Art 13 §4  
75-NW 212

Art 13 §4  
72-M - 211

Art 14 §1  
97 - 185  
60-M - 180

Art 14 §1  
72-M - 218

Art 14 §2  
95 ch. 1



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who shall be chosen in the same manner, and shall meet within three months after their election for the purpose aforesaid.

See Taylor v. Taylor and Dayton v. City of St. Paul, art. 14, § 1, supra.

## ARTICLE XV.

### MISCELLANEOUS SUBJECTS.

Art 15 §1  
69-NW 188  
72-NW 65

#### Section 1. Seat of government.

The seat of government of the state shall be at the city of St. Paul; but the legislature, at their first or any future session, may provide by law for a change of the seat of government by a vote of the people, or may locate the same upon the land granted by congress for a seat of government to the state; and in the event of the seat of government being removed from the city of St. Paul to any other place in the state, the capitol building and grounds shall be dedicated to an institution for the promotion of science, literature and the arts, to be organized by the legislature of the state, and of which institution the Minnesota historical society shall always be a department.

#### Sec. 2. Residence on Indian lands.

Persons residing on Indian lands within the state shall enjoy all the rights and privileges of citizens as though they lived in any other portion of the state, and shall be subject to taxation.

#### Sec. 3. Uniform oath.

The legislature shall provide for a uniform oath or affirmation to be administered at elections, and no person shall be compelled to take any other or different form of oath to entitle him to vote.

#### Sec. 4. Seal of the state.

There shall be a seal of the state, which shall be kept by the secretary of state, and be used by him officially, and shall be called the great seal of the state of Minnesota, and shall be attached to all official acts of the governor (his signature to acts and resolves of the legislature excepted) requiring authentication. The legislature shall provide for an appropriate device and motto for said seal.

#### Sec. 5. State prison.

The territorial prison, as located under existing laws, shall, after the adoption of this constitution, be and remain one of the state prisons of the state of Minnesota.

## SCHEDULE.

#### Section 1. Rights under territorial laws saved.

That no inconvenience may arise by reason of a change from a territorial to a permanent state government, it is declared that all rights, actions, prosecutions, judgments, claims and contracts, as well of individuals as of bodies corporate, shall continue as if no change had taken place; and all process which may be issued under the authority of the territory of Minnesota previous to its admission into the Union of the United States, shall be as valid as if issued in the name of the state.

#### Sec. 2. Territorial laws continued.

All laws now in force in the territory of Minnesota not repugnant to this constitution, shall remain in force until they expire by their own limitation, or be altered or repealed by the legislature.

This section preserved in operation the common-law remedy of distress for rent. *Dutcher v. Culver*, 24 Minn. 584. See *St. Paul & S. C. R. Co. v. Gardner*, 19 Minn. 132, (Gil. 99, 106.)

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## Sec. 3. Fines, penalties, and forfeitures.

All fines, penalties or forfeitures accruing to the territory of Minnesota, shall inure to the state.

## Sec. 4. State to succeed to all rights of territory.

All recognizances heretofore taken, or which may be taken before the change from a territorial to a permanent state government, shall remain valid, and shall pass to and may be prosecuted in the name of the state; and all bonds executed to the governor of the territory, or to any other officer or court in his or their official capacity, shall pass to the governor or state authority, and their successors in office, for the uses therein respectively expressed, and may be sued for and recovered accordingly; and all the estate of property, real, personal, or mixed, and all judgments, bonds, specialties, choses in action, and claims and debts of whatsoever description, of the territory of Minnesota, shall inure to and vest in the state of Minnesota, and may be sued for and recovered in the same manner and to the same extent by the state of Minnesota as the same could have been by the territory of Minnesota. All criminal prosecutions and penal actions which may have arisen or which may arise before the change from a territorial to a state government, and which shall then be pending, shall be prosecuted to judgment and execution in the name of the state. All offences committed against the laws of the territory of Minnesota before the change from a territorial to a state government, and which shall not be prosecuted before such change, may be prosecuted in the name and by the authority of the state of Minnesota, with like effect as though such change had not taken place, and all penalties incurred shall remain the same as if this constitution had not been adopted. All actions at law and suits in equity which may be pending in any of the courts of the territory of Minnesota at the time of a change from a territorial to a state government, may be continued and transferred to any court of the state which shall have jurisdiction of the subject-matter thereof.

## Sec. 5. Territorial officers continued.

All territorial officers, civil and military, now holding their offices under the authority of the United States or of the territory of Minnesota, shall continue to hold and exercise their respective offices until they shall be superseded by the authority of the state.

## Sec. 6. First session of legislature.

The first session of the legislature of the state of Minnesota shall commence on the first Wednesday of December next, and shall be held at the capitol in the city of St. Paul.

## Sec. 7. Election laws continued.

The laws regulating the election and qualification of all district, county and precinct officers, shall continue and be in force until the legislature shall otherwise provide by law.

## Sec. 8. Constitution submitted to a vote of the people.

The president of this convention shall, immediately after the adjournment thereof, cause this constitution to be deposited in the office of the governor of the territory; and if, after the submission of the same to a vote of the people, as hereinafter provided, it shall appear that it has been adopted by a vote of the people of the state, then the governor shall forward a certified copy of the same, together with an abstract of the votes polled for and against said constitution, to the president of the United States, to be by him laid before the congress of the United States.

## Sec. 9. Representative districts.

For the purposes of the first election, the state shall constitute one district, and shall elect three members to the house of representatives of the United States.

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## Sec. 10. Apportionment of counties into districts.

For the purposes of the first election for members of the state senate and house of representatives, the state shall be divided into senatorial and representative districts as follows, viz.: first district, Washington county; second district, Ramsey county; third district, Dakota county; fourth district, so much of Hennepin county as lies west of the Mississippi; fifth district, Rice county; sixth district, Goodhue county; seventh district, Scott county; eighth district, Olmsted county; ninth district, Fillmore county; tenth district, Houston county; eleventh district, Winona county; twelfth district, Wabasha county; thirteenth district, Mower and Dodge counties; fourteenth district, Freeborn and Faribault counties; fifteenth district, Steele and Waseca counties; sixteenth district, Blue Earth and Le Sueur counties; seventeenth district, Nicollet and Brown counties; eighteenth district, Sibley, Renville and McLeod counties; nineteenth district, Carver and Wright counties; twentieth district, Benson, Stearns and Meeker counties; twenty-first district, Morrison, Crow Wing and Mille Lacs counties; twenty-second district, Cass, Pembina and Todd counties; twenty-third district, so much of Hennepin county as lies east of the Mississippi; twenty-fourth district, Sherburne, Anoka and Manomin counties; twenty-fifth district, Chisago, Pine and Isanti counties; twenty-sixth district, Buchanan, Carlton, St. Louis, Lake and Itasca counties.

## Sec. 11.

The counties of Brown, Stearns, Todd, Cass, Pembina, and Renville, as applied in the preceding section, shall not be deemed to include any territory west of the state line, but shall be deemed to include all counties and parts of counties east of said line as were created out of the territory of either, at the last session of the legislature.

## Sec. 12. Apportionment of members of the legislature.

The senators and representatives at the first election shall be apportioned among the several senatorial and representative districts as follows, to wit:

1st district,	2 senators,	3 representatives.
2d district,	3 senators,	6 representatives.
3d district,	2 senators,	5 representatives.
4th district,	2 senators,	4 representatives.
5th district,	2 senators,	3 representatives.
6th district,	1 senator,	4 representatives.
7th district,	1 senator,	3 representatives.
8th district,	2 senators,	4 representatives.
9th district,	2 senators,	6 representatives.
10th district,	2 senators,	3 representatives.
11th district,	2 senators,	4 representatives.
12th district,	1 senator,	3 representatives.
13th district,	2 senators,	3 representatives.
14th district,	1 senator,	3 representatives.
15th district,	1 senator,	4 representatives.
16th district,	1 senator,	3 representatives.
17th district,	1 senator,	3 representatives.
18th district,	1 senator,	3 representatives.
19th district,	1 senator,	3 representatives.
20th district,	1 senator,	3 representatives.
21st district,	1 senator,	1 representative.
22d district,	1 senator,	1 representative.
23d district,	1 senator,	2 representatives.
24th district,	1 senator,	1 representative.
25th district,	1 senator,	1 representative.
26th district,	1 senator,	1 representative.

## Sec. 13.

The returns from the 22d district shall be made to and canvassed by the judges of election at the precinct of Otter Tail City.

**Sec. 14. Judicial districts.**

Until the legislature shall otherwise provide, the state shall be divided into judicial districts as follows, viz:

The counties of Washington, Chisago, Manomin, Anoka, Isanti, Pine, Buchanan, Carlton, St. Louis, and Lake, shall constitute the first judicial district.

The county of Ramsey shall constitute the second judicial district.

The counties of Houston, Winona, Fillmore, Olmsted, and Wabasha, shall constitute the third judicial district.

The counties of Hennepin, Carver, Wright, Meeker, Sherburne, Benton, Stearns, Morrison, Crow Wing, Mille Lacs, Itasca, Pembina, Todd, and Cass, shall constitute the fourth judicial district.

The counties of Dakota, Goodhue, Scott, Rice, Steele, Waseca, Dodge, Mower, and Freeborn, shall constitute the fifth judicial district.

The counties of Le Sueur, Sibley, Nicollet, Blue Earth, Faribault, McLeod, Renville, Brown, and all other counties in the state not included within the other districts, shall constitute the sixth judicial district.

**Sec. 15. Prosecuting attorney.**

Each of the foregoing enumerated judicial districts may, at the first election, elect one prosecuting attorney for the district.

**Sec. 16. First election.**

Upon the second Tuesday, the 13th day of October, 1857, an election shall be held for members of the house of representatives of the United States, governor, lieutenant governor, supreme and district judges, members of the legislature, and all other officers designated in this constitution, and also for the submission of this constitution to the people for their adoption or rejection.

Cited, *State v. Munch*, 22 Minn. 67, 71.

**Sec. 17. Voters at the first election.**

Upon the day so designated as aforesaid, every free white male inhabitant over the age of twenty-one years, who shall have resided within the limits of the state for ten days previous to the day of said election, may vote for all officers to be elected under this constitution at such election, and also for or against the adoption of this constitution.

**Sec. 18. Vote on the constitution.**

In voting for or against the adoption of this constitution, the words "for constitution," or "against constitution," may be written or printed on the ticket of each voter, but no voter shall vote for or against this constitution on a separate ballot from that cast by him for officers to be elected at said election under this constitution; and if, upon the canvass of the votes so polled, it shall appear that there was a greater number of votes polled for than against said constitution, then this constitution shall be deemed to be adopted as the constitution of the state of Minnesota; and all the provisions and obligations of this constitution, and of the schedule thereunto attached, shall thereafter be valid to all intents and purposes as the constitution of said state.

**Sec. 19. Election, how conducted.**

At said election the polls shall be opened, the election held, returns made, and certificates issued, in all respects as provided by law for opening, closing and conducting elections and making returns of the same, except as hereinbefore specified, and excepting also that polls may be opened and elections held at any point or points in any of the counties where precincts may be established, as provided by law, ten days previous to the day of election, not less than ten miles from the place of voting in any established precinct.

**Sec. 20. Poll-books to be sent to secretary.**

It shall be the duty of the judges and clerks of election, in addition to the returns required by law for each precinct, to forward to the secretary of the territory by mail immediately after the close of the election, a certified copy of the poll-book, containing the name of each person who has voted in the

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precinct, and the number of votes polled for and against the adoption of this constitution.

## Sec. 21. Returns of election, how made.

The returns of said election for and against this constitution, and for all state officers and members of the house of representatives of the United States, shall be made and certificates issued in the manner now prescribed by law for returning votes given for delegate to congress, and the returns for all district officers, judicial, legislative, or otherwise, shall be made to the register of deeds of the senior county in each district, in the manner prescribed by law, except as otherwise provided. The returns for all officers elected at large shall be canvassed by the governor of the territory, assisted by Joseph R. Brown and Thomas J. Galbraith, at the time designated by law for canvassing the vote for delegate to congress.

## Sec. 22. Provision in case of rejection of constitution.

If, upon canvassing the votes for and against the adoption of this constitution, it shall appear that there has been polled a greater number of votes against than for it, then no certificate of election shall be issued for any state or district officer provided for in this constitution, and no state organization shall have validity within the limits of the territory until otherwise provided for, and until a constitution for a state government shall have been adopted by the people.

This section and § 18 are cited in Taylor v. Taylor, 10 Minn. 107, (Gil. 81.)

## AMENDMENT TO SECTION TEN, ARTICLE NINE, OF THE CONSTITUTION.

[Adopted April 15, 1858.]

## Sec. 10. Loan of state credit for railroad purposes.

The credit of this state shall never be given or loaned in aid of any individual, association or corporation, except that for the purpose of expediting the construction of the lines of railroads, in aid of which the congress of the United States has granted lands to the territory of Minnesota, the governor shall cause to be issued and delivered to each of the companies in which said grants are vested by the legislative assembly of Minnesota, the special bonds of the state, bearing an interest of seven per cent. per annum, payable semi-annually in the city of New York, as a loan of public credit, to an amount not exceeding twelve hundred and fifty thousand dollars, or an aggregate amount to all of said companies not exceeding five millions of dollars, in manner following, to wit:

### Manner of issuing bonds—Pledge of credit of state—Conditions of loan.

Whenever either of the said companies shall produce to the governor satisfactory evidence, verified by the affidavits of the chief engineer, treasurer and two directors of said company, that any ten miles of the road of said company has been actually constructed and completed, ready for placing the superstructure thereon, the governor shall cause to be issued and delivered to such company, bonds to the amount of one hundred thousand dollars; and whenever thereafter and as often as either of said companies shall produce to the governor, like evidence of a further construction of ten miles of its road, as aforesaid, then the governor shall cause to be issued to such company further like bonds to the amount of one hundred thousand dollars for each and every ten miles of road thus constructed; and whenever such company shall furnish like evidence that any ten miles of its road is actually completed and cars running thereon, the governor shall cause to be issued to such company like bonds to the amount of one hundred thousand dollars; and whenever thereafter, and as often as either of said companies shall produce to the governor like evidence that any further ten miles of said road is

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in operation as aforesaid, the governor shall cause to be issued to such company further like bonds to the amount of one hundred thousand dollars until the full amount of the bonds hereby authorized shall be issued; provided, that two-fifths, and no more, of all bonds issued to the Southern Minnesota railroad company shall be expended in the construction and equipment of the line of road from La Crescent to the point of junction with the Transit road, as provided by law: and further provided, that the Minneapolis and Cedar Valley railroad company shall commence the construction of their road at Faribault and Minneapolis, and shall grade an equal number of miles from each of said places.

The said bonds thus issued shall be denominated "Minnesota State Railroad Bonds," and the faith and credit of this State are hereby pledged for the payment of the interest and the redemption of the principal thereof. They shall be signed by the governor, countersigned and registered by the treasurer, sealed with the seal of the state, of denominations not exceeding one thousand dollars, payable to the order of the company to whom issued, transferable by the endorsement of the president of the said company, and redeemable at any time after ten and before the expiration of twenty-five years from the date thereof. Within thirty days after the governor shall proclaim that the people have voted for a loan of state credit to railroads, any of said companies proposing to avail themselves of the loan herein provided for, and to accept the conditions of the same, shall notify the governor thereof, and shall, within sixty days, commence the construction of their roads; and shall, within two years thereafter, construct, ready for the superstructure, at least fifty miles of their road. Each company shall make provision for the punctual payment and redemption of all bonds issued and delivered as aforesaid to said company, and for the punctual payment of the interest which shall accrue thereon, in such manner as to exonerate the treasury of this state from any advances of money for that purpose; and as security therefor the governor shall demand and receive from each of said companies, before any of said bonds are issued, an instrument pledging the net profits of its road for the payment of said interest, and a conveyance to the state of the first two hundred and forty sections of land free from prior incumbrances, which such company is or may be authorized to sell, in trust, for the better security of the treasury of the state from loss on said bonds; which said deed of trust shall authorize the governor and secretary of state to make conveyances of title to all or any of such lands to purchasers agreeing with the respective railroad companies therefor; provided, that before releasing the interest of the state to such lands, such sale shall be approved by the governor, but the proceeds of all such sales shall be applied to the payment of interest accruing upon the bonds in case of default of the payment of the same, and as a sinking fund to meet any future default in the payment of interest and the principal thereof when due; and as further security, an amount of first mortgage bonds on the roads, lands and franchises of the respective companies, corresponding to the state bonds, issued, shall be transferred to the treasurer of the state at the time of the issue of state bonds; and in case either of said companies shall make default in payment of either the interest or principal of the bonds issued to said companies by the governor, no more state bonds shall thereafter be issued to said company, and the governor shall proceed, in such manner as may be prescribed by law, to sell the bonds of the defaulting company or companies, or the lands held in trust as above, or may require a foreclosure of the mortgage executed to secure the same: provided, that if any company so in default, before the day of sale, shall pay all interest and principal then due, and all expenses incurred by the state, no sale shall take place, and the right of said company shall not be impaired to a further loan of state credit: provided, if any of said companies shall at any time offer to pay the principal, together with the interest that may then be due, upon any of the Minnesota state railroad bonds which may have been issued under the provisions of this section, then the treasurer of state shall receive the same; and the liabilities of said company or companies in respect to said bonds shall cease upon such payment into the state treasury, of principal, together with the interest as aforesaid: provided further, that in consideration

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of the loan of state credit herein provided, that the company or companies which may accept the bonds of the state in the manner herein specified, shall, as a condition thereof, each complete not less than fifty miles of its road on or before the expiration of the year 1861, and not less than one hundred miles before the year 1864, and complete four-fifths of the entire length of its road before the year 1868; and any failure on the part of any such company to complete the number of miles of its road or roads, in the manner and within the several times herein prescribed, shall forfeit to the state all the right, title and interest of any kind whatsoever in and to any lands, together with the franchises connected with the same not pertaining or applicable to the portion of the road by them constructed, and a fee simple to which has not accrued to either of said companies by reason of such construction, which was granted to the company or companies thus failing to comply with the provisions hereof, by act of the legislature of the territory of Minnesota, vesting said land in said companies respectively: [Expunged by amendment to sec. 10, art. 9, ante.]

ACT OF ADMISSION INTO THE UNION.

Section.

1. Minnesota admitted as a state.
2. Entitled to two representatives.
3. Laws of the United States extended over it—made a judicial district—pay of judges and other officers—provision for appeals now pending.

*An act for the admission of Minnesota into the Union.*

[Passed May 11, 1858.]

**Preamble.**

Whereas an act of congress was passed February twenty-six, eighteen hundred and fifty-seven, entitled "An act to authorize the people of the territory of Minnesota to form a constitution and state government preparatory to their admission into the Union on an equal footing with the original states;" and whereas the people of said territory did, on the twenty-ninth day of August, eighteen hundred and fifty-seven, by delegates elected for that purpose, form for themselves a constitution and state government, which is republican in form, and was ratified and adopted by the people at an election held on the thirteenth day of October, eighteen hundred and fifty-seven, for that purpose; therefore

**Minnesota admitted.**

Be it enacted by the senate and house of representatives of the United States of America in congress assembled, That the state of Minnesota shall be one, and is hereby declared to be one of the United States of America, and admitted into the Union on an equal footing with the original states, in all respects whatever.

**Sec. 2. Shall have two representatives.**

And be it further enacted, That said state shall be entitled to two representatives in congress until the next apportionment of representatives amongst the several states.

**Sec. 3. Laws of the United States extended over it—Made a judicial district, etc.**

And be it further enacted, That from and after the admission of the state of Minnesota, as hereinbefore provided, all the laws of the United States which are not locally inapplicable shall have the same force and effect within that state as in other states of the Union; and the said state is hereby constituted a judicial district of the United States, within which a district court, with the like powers and jurisdiction as the district court of the United States for the district of Iowa, shall be established: the judge, attorney and marshal of the United States for the said district of Minnesota shall reside within the same, and shall be entitled to the same compensation as the judge, attorney and marshal of the district of Iowa; and in all cases of appeal or writ of error heretofore prosecuted and now pending in the supreme court of the United States, upon any record from the supreme court of Minnesota territory, the mandate of execution or order of further proceedings shall be directed by the supreme court of the United States to the district court of the United States for the district of Minnesota, or to the supreme court of the state of Minnesota, as the nature of such appeal or writ of error may require; and each of those courts shall be the successor of the supreme court of Minnesota territory, as to all such cases, with full power to hear and determine the same, and to award mesne or final process therein.