

CHAPTER 40.

AN ACT TO AMEND TITLE ONE (1). CHAPTER EIGHTY (80) OF THE GENERAL STATUTES, ONE THOUSAND EIGHT HUNDRED AND SEVENTY-EIGHT (1878). RELATING TO MANDAMUS.

Be it enacted by the Legislature of the State of Minnesota :

SECTION 1. That section thirteen (13) of title one (1), chapter eighty (80) of the General Statutes, one thousand eight hundred and seventy-eight (1878), be and the same is hereby amended so as to read as follows:

Sec. 13. Issues of fact in any such proceeding instituted in the supreme court or in any district court, [shall be tried in the district court] of the county in which the defendant may reside, or in which the material facts contained in the relation for the mandamus shall be alleged to have taken place, and either party shall be entitled to have any issue of fact in such proceeding tried by a jury as in an ordinary civil action. The provisions of this act shall govern and be applicable in any such action or proceeding heretofore commenced in the supreme court in which there has not been a final hearing. *Provided*, always, that except as aforesaid nothing in this act contained shall be construed so as to divest the supreme court of jurisdiction to hear and finally determine any and all such suits or proceedings now pending in said court. And *provided further*, that any such suit or proceeding now pending in the supreme court in which there is any issue of fact which has not been finally heard or determined, the said supreme court shall, on the request of the attorney of either the plaintiff or defendant in such suit or proceeding, transmit the record to the District Court of the proper county, which District Court shall thereupon and thereafter have jurisdiction of the case, and shall proceed to try any issue or issues therein, in the same manner and with the same effect as if such suit or proceeding had been originally commenced in such District Court. And *provided further*, that the District Court in which such suit or proceeding is pending may grant a change of venue as in ordinary civil actions.

Issues of fact.

Sec. 2 This act shall take effect and be in force from and after its passage.

Approved March 7, 1881.