

be amended so as read as follows: The execution shall be made returnable within sixty (60) days after its receipt by the officer to the clerk with whom the judgment roll is filed (but the judgment creditor or his attorney may, at any time within said sixty (60) days, demand the money received and collected by said sheriff upon execution in his hands, and the sheriff shall immediately pay the same over to said judgment creditor or his said attorney, after deducting his proper fees thereon.) On the return of an execution unsatisfied in whole or in part, or just before the expiration of the period of sixty (60) days, the clerk may renew the same for a further period of sixty days on the oral or written request of the judgment creditor or his attorney, by endorsing on said execution the words following: "Renewed sixty (60) days from the date hereof at the request of the judgment creditor;" to which endorsement he shall add the true date of making the same and attest the same by his signature and the seal of the court, and shall thereupon redeliver the same, so endorsed, to the officer returning the same; and such renewal shall have the effect of extending the life of the execution for an additional period of sixty (60) days, fully preserving all levies made and rights acquired under the execution before such renewal, and such execution may be again so renewed, from time to time, by endorsement by the clerk as aforesaid, with the same effect as such first renewal.

Unsatisfied execution, how renewed.

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

Approved November 22, 1881.

CHAPTER 5.

AN ACT TO AMEND TITLE NINE (9) OF CHAPTER SIXTY-FIVE (65) OF GENERAL STATUTES OF A. D. ONE THOUSAND EIGHT HUNDRED AND SEVENTY-EIGHT (1878), RELATING TO THE ACTION OF REPLEVIN IN JUSTICES COURTS.

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

SECTION 1. That section ninety (90) of chapter sixty-five (65) of the General Statutes of A. D. one thousand eight (1878), be amended to read as follows: "The plaintiff shall also execute a bond to the defendant with not less than two (2) sureties, to be approved by the justice in a sum not less than fifty (50) dollars, conditioned that he will

Plaintiff's bond.

appear on the return day of the writ, and prosecute his action to judgment, and to pay all costs and damages that may be adjudged against him, the bond shall be filed with the Justice for the use of any person injured by the proceedings, and an action may be maintained on such bond to recover the amount of any judgment rendered on dismissal of the action for want of jurisdiction or any other cause, or for failure to abide by any such judgment, or for failure or neglect to pay all costs and damages that may or shall be incurred in such proceeding.

SECTION 2. That section ninety-one (91) of chapter sixty-five (65) of the General Statutes A. D. one thousand eight hundred and seventy-eight (1878), be amended to read as follows: "The Justice shall thereupon issue a writ, directed to the Sheriff or any Constable of the County, commanding him to take the property therein described without delay, and to hold the same subject to the further order of the Court, and to summon the defendant to appear and answer the same on the return day mentioned in the writ."

Writ to sheriff
or constable.

SECTION 3. That section ninety-two (92) of chapter sixty-five (65) of the General Statutes A. D. one thousand eight hundred and seventy-eight (1878), be amended to read as follows: "In obedience to such writ the officer shall forthwith take possession of the property mentioned in the writ if the same is in the possession of the defendant or his agent for which purpose he may break open any dwelling house or other inclosure, having first demanded entrance and exhibited his authority, if required, and shall return the writ immediately after the service thereof, and state in his return fully in [what] manner he has served and executed the same, and shall keep the goods and chattels in his possession until the cause is decided by the Court."

Officer may
break open
dwelling.

SECTION 4. That section ninety-four (94) of chapter sixty-five (65) be amended to read as follows: If the property sought is not obtained by the officer serving the writ, the plaintiff, if he establishes his right thereto, shall recover the value of that right, and whether obtained or not, he shall recover the damages and costs he has sustained in consequence of the illegal detention or taking and withholding thereof, and if the property or any part thereof is obtained and it is found upon the trial that the plaintiff is entitled to the possession of the same or any part thereof, the Justice shall immediately enter an order [in his docket] requiring the officer serving the writ to deliver the goods and chattels to the plaintiff, and issue execution for the costs and damages awarded the plaintiff, together with the amount due plaintiff as the value of the property not obtained, and to which plaintiff is entitled.

Justice may
require officer
to deliver
goods.

SECTION 5. That section ninety-five (95) of chapter sixty-five (65) of the General Statutes A. D. one thousand eight hundred and seventy-eight (1878), be amended to read as follows: If the plaintiff fails to establish his right to the property, or the action is dismissed by the Justice for want of jurisdiction or other cause, or the action is discontinued by the

Defendant
may recover
damages and
costs, when

plaintiff, the defendant shall recover such damages and costs as under the circumstances he shows himself entitled, and in addition thereto may have judgment for the return of the property or the value thereof, if the same has been taken out of his possession, and the Justice shall immediately enter an order in his docket requiring the officer to deliver the same goods and chattels to the defendant and adjudge that he may recover such damages and costs of the action as he shows himself entitled to, and shall issue execution therefor, and whenever an order shall be entered by a Justice in an action for the recovery of the possession of personal property for the delivery of property to either party, the property shall not be delivered to the party in whose favor the same is entered until the expiration of twenty-four (24) hours after the entry of the order, *provided* the losing party in the action does not file with the Justice or his successor in office within twenty-four (24) hours after the entry of such an affidavit setting forth that he intends to appeal from the judgment rendered in the action, and that the appeal is made in good faith and not for the purpose of delay in which case the officer will continue to hold and keep the property in his possession until an appeal is perfected as required by section one hundred and fourteen (114), chapter sixty-five (65) of the general statutes 1878 and upon the perfection of said appeal the officer having such property in his possession shall transfer and deliver the same to the party appealing, upon receiving his fees and reasonable compensation for the care and keeping of such property, such compensation to be fixed by the Court or Justice.

Approved November 21, 1881.

CHAPTER 6.

AN ACT TO AMEND CHAPTER EIGHT (8) OF THE GENERAL STATUTES OF A. D. ONE THOUSAND EIGHT HUNDRED AND SEVENTY-EIGHT (1878,) RELATING TO COUNTIES AND COUNTY OFFICERS.

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

SECTION 1. Chapter eight (8) of the General Statutes of A. D. one thousand eight hundred and seventy-eight (1878), relating to Counties and County Officers, is hereby amended by adding the following section thereto:

SEC. 271. In all cases of vacancy occurring in any office, which is authorized to be filled by appointment of the Board