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GENERAL STATUTES

OF THE

STATE OF MINNESOTA.

PREPARED BY THE COMMISSIONERS APPOINTED TO REVISE
THE STATUTES OF THE STATE, BY ACT OF THE
LEGISLATURE, PASSED FEBRUARY 17, 1863.

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3 indebted to him, claims an interest in the property, adverse
4 to him, or denies the debt, such interest or debt is recover-
5 able only in an action against such person or corporation,
6 by the receiver; but the judge may, by order, forbid a
7 transfer or other disposition of such property or interest, till
8 a sufficient opportunity is given to the receiver to commence
9 the action, and prosecute the same to judgment and execu-
10 tion; such order may be modified or vacated by the judge
11 granting the same, at any time, on such security as he may
12 direct.

1 SECT. 307. If any person, party, or witness, disobeys C. S. P. 576, Sect. 134. *c 61*
2 an order of the judge or referee, duly served, such person,
3 party, or witness, may be punished by the judge, as for a
4 contempt; the proceedings therefor are prescribed in chap-
5 ter eighty-seven of this statute, respecting the punishment
6 of contempt.

1 SECT. 308. No person shall, on examination pursuant New.
2 to this chapter, be excused from answering any question on
3 the ground that his examination will tend to convict him of
4 the commission of a fraud; but his answer shall not be used
5 as evidence against him in any criminal proceeding or prose-
6 cution.

CHAPTER LXVII.

COSTS.

1 SECTION 1. The right of a party to agree with an attor- C. S. P. 577, Sect. 1. Amended. *c 62*
2 ney or counsel for his compensation, is unrestricted, and
3 the measure and mode of such compensation is left to the
4 agreement, express or implied, of the parties; but there
5 may be allowed to the prevailing party, certain sums by
6 way of indemnity, for his expenses in the action, which al-
7 lowances are termed costs.

1 SECT. 2. Costs are allowed to the prevailing party in
2 actions commenced in the district court as follows:
3 *First.*—To the plaintiff upon a judgment in his favor of C. S. P. 577, Sect. 2. Amended.
4 one hundred dollars or more in an action for the recovery
5 of money only, when no issue of fact or law is joined, five
6 dollars. When an issue is joined, ten dollars;
7 *Second.*—In all other actions except as hereinafter other-
8 wise provided, ten dollars;
9 *Third.*—To the defendant upon discontinuance or dis-
10 missal, five dollars;

11 *Fourth.*—When judgment is rendered in his favor on the
12 merits, ten dollars.

New.

1 SECT. 3. In every action commenced in the district
2 court, the prevailing party shall be allowed his disburse-
3 ments necessarily paid or incurred.

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C. S. p. 571, Sect. 3.
Amended.

1 SECT. 4. When several actions are brought on any in-
2 strument in writing, or in any other case for the same cause
3 of action against several parties who might have been joined
4 as defendants in the same action, no costs can be allowed to
5 the plaintiff in more than one of such actions, which may
6 be at his election, if the parties proceeded against in the
7 other actions were at the commencement of the previous
8 action openly within this state; but the disbursements of
9 the plaintiff may be allowed to him as provided in the pre-
10 ceding section.

C. S. p. 577, Sect. 5.
Amended.

1 SECT. 5. In equitable actions, costs may be allowed, or
2 not; and if allowed, may be apportioned between the par-
3 ties on the same or adverse sides, in the discretion of the
4 court. When there are several defendants not united in
5 interest, and making separate defenses by separate answers,
6 and the plaintiff fails to recover judgement against all, the
7 court may award costs to such of the defendants as have
8 judgment in their favor, or any of them.

C. S. p. 577, Sect. 6.

1 SECT. 6. Costs cannot be allowed to the plaintiff in an
2 action upon a judgment of a court of this state, between the
3 same parties, unless such action was brought with previous
4 leave of the court, for cause shown; but this prohibition
5 does not apply to an action upon the judgment of a justice
6 brought in another county, or brought in the same county,
7 in case of the summons not having been served on all the
8 defendants, or the death of a party, or the death, resigna-
9 tion, incapacity to act, or removal from the county of the
10 justice, or the loss of his docket.

C. S. p. 578, Sect. 8.

1 SECT. 7. When the judgment is for the recovery of
2 money, interest from the time of the verdict or report, un-
3 til the judgment is finally entered, shall be computed by
4 the clerk, and added thereto.

C. S. p. 578, Sect. 9.
Amended.

1 SECT. 8. Costs and disbursements shall be taxed and
2 allowed, in the first instance, by the clerk, upon two days
3 notice by either party, and inserted in the entry of judg-
4 ment; the disbursements shall be stated in detail and veri-
5 fied by affidavit which shall be filed; the party objecting to
6 any item shall specify in writing, the grounds of objection
7 and the same, in case of appeal, shall be certified to the

8 court by the clerk, and the appeal shall be heard and de-
9 terminated upon the objections so certified and none other.

1 SECT. 9. The court may impose terms, not exceeding
2 ten dollars at any one time, as a condition to opening de-
3 faults, granting continuences, amendments, leave to answer
4 or demur, and other applications of a discretionary nature
5 whenever justice requires it.

C. S. p. 578, Sect. 10.
Amended.

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1 SECT. 10. When costs are adjudged against an infant
2 plaintiff, the guardian by whom he appears in the action is
3 responsible for them, and judgment therefor may be entered
4 against both the guardian and the infant.

C. S. p. 578, Sect. 13.

1 SECT. 11. When in an action on contract express or im-
2 plied, the defendant alleges in his answer, that before the
3 commencement of the action, he tendered to the plaintiff
4 the full amount to which he was entitled, and thereupon
5 deposits in court for the plaintiff the amount so tendered,
6 and the allegation is found true, the defendant is entitled to
7 costs and disbursements.

C. S. p. 579, Sect. 14.
Amended.

1 SECT. 12. In an action prosecuted or defended by an
2 executor, administrator, trustee of an express trust, or a
3 person expressly authorized by statute, costs and disburse-
4 ments, may be recovered, as in an action by and against a per-
5 son prosecuting or defending in his own right, but the same
6 shall by the judgment, be made chargeable only upon the
7 estate, fund, or party represented, unless the court directs
8 the same to be paid by the plaintiff or defendant personally;
9 for mismanagement or bad faith in the action; but no costs
10 or disbursements are recoverable in such action, unless it
11 appears that the demand was first presented to the executor
12 or administrator, verified by oath, and payment demanded.

C. S. p. 579, Sect. 15.
Amended.

1 SECT. 13. When an action or proceeding is instituted
2 in the name of the state, on the relation of any citizen, such
3 relator is entitled to and liable for costs and disbursements,
4 in the same cases and to the same extent as if such action
5 or proceeding had been instituted in his own name.

C. S. p. 579, Sect. 22.

1 SECT. 14. In civil actions tried before a justice of the
2 peace, if the plaintiff appeals from a judgment in his favor,
3 and does not recover in the district court, a greater sum as
4 damages than he recovered by the first judgment, the de-
5 fendant is entitled to costs and disbursements; if the de-
6 fendant appeals and the amount of the plaintiff's recovery
7 before the justice is reduced one-half or more in the district
8 court, the defendant is entitled to costs and disbursements;
9 in all other cases of appeal from the judgment of a justice of

C. S. p. 580, Sect. 25.
Amended.

10 the peace in such actions, the successful party is entitled to
11 costs and disbursements.

c62 C. S. p. 580, Sect. 25. 1 SECT. 15. In comparing the sums recovered by the two
2 judgments, for the purposes specified in the preceding sec-
3 tion, the interest accrued on the plaintiff's demand, after
4 the first judgment, shall not be considered.

COSTS IN THE SUPREME COURT.

C. S. p. 578, Sect. 7,
sub. 6. Amended. 1 SECT. 16. Costs in the supreme court may be allowed
2 in the discretion of said court as follows:
3 *First.*—To the prevailing party upon a judgment in his
4 favor on the merits, not exceeding twenty-five dollars.
5 *Second.*—Upon dismissal not exceeding ten dollars.

New. 1 SECT. 17. In all cases the prevailing party shall be al-
2 lowed his disbursements necessarily paid or incurred.

c71 C. S. p. 624, Sect. 30.
Amended. 1 SECT. 18. In an action for the recovery of money only
2 said court may, if of opinion that the appeal was taken for
3 delay merely, allow the plaintiff, in addition to costs and
4 disbursements, a sum not exceeding three per cent. on the
5 amount of the judgment recovered in the district court.

SECURITY FOR COSTS.

c13 1862—p. 63, Sects. 1
& 2, in part, com-
bined & amended. 1 SECT. 19. When an action is commenced in the dis-
2 trict court in the name of any plaintiff who is committed
3 and in execution for a crime, or wherein the plaintiff is a
4 non-resident of this state, or wherein all of several plaintiffs
5 are non-residents of this state, or in the name or behalf of any
6 foreign corporation, such plaintiff shall file with the clerk
7 of the court wherein such action is brought before the ser-
8 vice of the summons therein, a bond in the penal sum of
9 seventy-five dollars, executed by one or more sureties, pay-
10 able to the clerk of such court, for the benefit of parties
11 who may become entitled to disbursements or costs in such
12 action, and conditioned for the payment of all disbursements
13 and costs that may be adjudged against the plaintiff in the
14 action. If after the commencement of the action, all the
15 parties plaintiff therein become non-residents of this state,
16 or the sureties in the bond above provided for, remove from
17 this state or become insolvent, the defendant may on mo-
18 tion by order of the court, require an additional bond to be
19 filed, payable and conditioned as herein provided.

1862—p. 36, Sect. 2,
in part. Amended. 1 SECT. 20. If any party commences an action without
2 filing a bond, or fails to provide an additional one as above
3 required, the court on motion of the defendant, may order a

4 stay of all proceedings in such action, or a dismissal of such
5 action at the cost of the attorney commencing the same.

1 SECT. 21. When judgment is entered against any party
2 who has given security as above provided, and the disburse- 1862-p. 64, Sect. 8. c/3
3 ments and costs so adjudged against such party remain in
4 whole or in part unpaid for ten days after the entry of judg-
5 ment, such bond may be put in suit and prosecuted to final
6 judgment and execution.

CHAPTER LXVIII.
HOMESTEAD EXEMPTION.

1 SECTION 1. Any tract, piece or parcel of land, and the
2 buildings thereon, occupied as a residence and owned by
3 the debtor, or any such buildings owned by the debtor on
4 land not his own, but of which he is in the rightful posses-
5 sion by lease or otherwise, he being a householder and hav- New chapter.
6 ing a family, of the value of twenty-five hundred dollars,
7 shall be exempt from levy and sale on execution, and no
8 release or waiver of such exemption shall be valid in law,
9 unless by deed, for good consideration, subscribed by such
10 householder and his wife, and acknowledged and recorded
11 in the same manner as conveyances of real estate.

1 SECT. 2. Such exemption shall not affect any laborer's,
2 mechanic's or other lien for labor performed, or materials
3 furnished, in the erection, alteration or repair of any build-
4 ing or addition thereto, on such land, nor extend to any
5 mortgage thereof, lawfully obtained, nor any sale for non-
6 payment of taxes, or assessment thereon, nor to any debt or
7 liability incurred for the purchase of such lands or buildings,
8 nor to any debt or liability incurred before the recording of
9 the deed or writing provided for in the next section.

1 SECT. 3. To entitle any property to such exemption, it
2 shall be set forth in the deed of purchase that it is designed
3 to be held as a homestead, or if already purchased, the said
4 design shall be declared in writing, duly sealed and ac-
5 knowledged as in case of a conveyance of real estate, and
6 recorded in the registry of deeds of the county in which the
7 land is situated.

1 SECT. 4. Such exemption shall continue after the death
2 of such householder for the benefit of his widow and family,

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