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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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1 SECT. 35. If such surplus, or any part thereof, remains
 2 in the said court, for the term of three months, without be-
 3 ing applied for, the district judge may direct the same to be
 4 put out at interest, subject to the order of the court for the
 5 benefit of the defendant, his representatives or assigns, to
 6 be paid to them by the order of the court.

C. S. p. 672, Sect. 17.

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1 SECT. 36. Whenever an action is brought for the fore-
 2 closure of any mortgage upon which there is due any inter-
 3 est, or any portion or instalment of the principal, and there
 4 are other portions or instalments to become due subsequent-
 5 ly, the action shall be dismissed upon the defendant's bring-
 6 ing into court, at any time before the judgment of sale, the
 7 principal and interest due, with costs.

C. S. p. 672, Sect. 18.
Amended.

1 SECT. 37. If, after a judgment of sale is entered against
 2 a defendant in such case, he brings into court the principal
 3 and interest due, with costs, the proceedings in the action
 4 shall be stayed, but the court shall enter a judgment of fore-
 5 closure and sale, to be enforced by a further order of the
 6 court, upon a subsequent default in the payment of any por-
 7 tion, or instalment of the principal, or of any interest there-
 8 after to grow due.

C. S. p. 672, Sect. 19.
Amended.

1 SECT. 38. Nothing herein contained shall be so con-
 2 strued as to prevent the court from adjudging that the
 3 whole of the mortgaged premises shall be sold, notwithstand-
 4 ing they consist of distinct farms or tracts, whenever it is
 5 made to appear that a sale of the whole will be most bene-
 6 ficial to the interests of the parties.

New.

1 SECT. 39. Whenever possession of lands foreclosed as
 2 aforesaid is wrongfully withheld, after final decree, the court
 3 may compel delivery of possession to the party entitled
 4 thereto by order directing the sheriff to effect such delivery.

New.

CHAPTER LXXXII.

CONFESSION OF JUDGMENT WITHOUT ACTION.

1 SECTION 1. A judgment by confession may be entered
 2 without action, either for money due, or to become due, or
 3 to secure any person against contingent liability on behalf
 4 of the defendant, or both in the manner prescribed by this
 5 chapter.

C. S. p. 642, Sect. 1.

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C. S. p. 642, Sect. 2.

1 SECT. 2. A statement in writing shall be made, signed
2 by the defendant, and verified by his oath, to the following
3 effect :

4 *First.*—It shall authorize the entry of judgment for a
5 specified sum ;

6 *Second.*—If it is for money due, or to become due, it
7 shall state concisely the facts out of which it arose, and
8 show that the sum confessed therefor is justly due, or to
9 become due ;

10 *Third.*—If it is for the purpose of securing the plaintiff
11 against a contingent liability, it shall state concisely the
12 facts constituting the liability, and show that the sum con-
13 fessed therefor, does not exceed the same.

C. S. p. 642, Sect. 3.

1 SECT. 3. The statement may be filed with the clerk of
2 the district court, who shall indorse upon it, and enter in
3 the judgment book a judgment of the district court for the
4 amount computed. The statement and verification, with
5 the judgment indorsed thereon, become the judgment roll.

C. S. p. 642, Sect. 4.

1 SECT. 4. Judgments may also be entered in the district
2 court in vacation, or in term, upon a plea of confession
3 signed by an attorney of such court, although there is no ac-
4 tion then pending between the parties, if the following pro-
5 visions are complied with, and not otherwise :

6 *First.*—The authority for confessing such judgment shall
7 be in some proper instrument, distinct from that containing
8 the bond, contract, or other evidence of the demand for
9 which judgment is confessed ;

10 *Second.*—Such authority shall be filed with the clerk of
11 the court in which the judgment is entered at the time of
12 filing and docketing such judgment.

C. S. p. 642, Sect. 5.

1 SECT. 5. When the authority mentioned in the last sec-
2 tion is filed with the clerk of the district court, judgment
3 may be entered thereon, in the same manner as is provided
4 in section one of this chapter.

C. S. p. 642, Sect. 6.

1 SECT. 6. Any judgment entered under either of the
2 provisions of this chapter in vacation, shall be as final and
3 effectual as judgment rendered upon a verdict of a jury, and
4 unless special provision is made for a stay of execution
5 upon such judgment, execution may issue immediately.

SUBMITTING A CONTROVERSY WITHOUT ACTION.

C. S. p. 642, Sect. 7.

1 SECT. 7. Parties to a matter in dispute, which might be
2 the subject of a civil action, may, without action, agree
3 upon a case containing the facts upon which the controversy
4 depends, and present a submission of the same, to any

5 court which would have jurisdiction if an action had been
6 brought; but it shall appear by affidavit that the contro-
7 versy is real, and the proceedings in good faith, to deter-
8 mine the rights of the parties; the court shall thereupon
9 hear and determine the case at a general or special term,
10 and render judgment thereon, as in civil actions.

1 SECT. 8. Judgment shall be entered in the judgment
2 book, as in other cases. The case, submission, and a copy
3 of the judgment, constitute the judgment roll, and judg-
4 ment may be enforced in the same manner as if it had been
5 rendered in an action, and is in the same manner subject to
6 appeal.

C. S. p. 643, Sects. 8
& 9, combined.

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CHAPTER LXXXIII.

ACTIONS AGAINST BOATS AND VESSELS.

1 SECTION 1. Every boat or vessel used in navigating the
2 waters of this state is liable:

3 *First.*—For all debts contracted by the master, owner,
4 agent, or consignee thereof, on account of supplies furnished
5 for the use of such boat or vessel, on account of work done
6 or services rendered on board or for the benefit of such boat
7 or vessel, or on account of labor done or materials furnished
8 by mechanics, tradesmen, or others in and for building,
9 repairing, fitting out, furnishing, or equipping the same.

10 *Second.*—For all sums due for wharfage or anchorage of
11 such boat or vessel within this state.

12 *Third.*—For all demands or damages accruing from the
13 non-performance or mal-performance of any contract of af-
14 freightment, or any contract touching the transportation of
15 persons or property, entered into by the master, owner,
16 agent or consignee of the boat or vessel on which such con-
17 tract is to be performed; and,

18 *Fourth.*—For all injuries done to persons or property by
19 such boat or vessel: *Provided, however,* That in no case
20 shall any boat or vessel be liable, as aforesaid, for any debt
21 contracted on account of work done or services rendered on
22 board or for the benefit of such boat or vessel; until the
23 contract therefor is fully and duly performed on the part of
24 the person engaging to perform the same.

C. S. p. 647, Sect. 1;
1864—p. 88, Sect. 1,
combined.

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1 SECT. 2. Whoever wishes to institute an action against
2 a boat or vessel, shall file his complaint against such boat or
3 vessel by name, with the clerk of the district court of the
4 county in which such boat or vessel may be.

C. S. p. 647, Sect. 3.

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