

Statutes
1878

THE
GENERAL STATUTES
OF THE
STATE OF MINNESOTA,

As Amended by Subsequent Legislation.

PREPARED BY
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EDITED AND PUBLISHED UNDER THE AUTHORITY OF CHAPTER 67 OF THE LAWS
OF 1878, AND CHAPTER 67 OF THE LAWS OF 1879.

FOURTH EDITION.

WITH SUPPLEMENTS,
CONTAINING ALL THE GENERAL LAWS IN FORCE UP TO THE END OF
THE LEGISLATIVE SESSION OF 1883.

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agree upon a case containing the facts upon which the controversy depends, and present a submission of the same to any court which would have jurisdiction if an action had been brought; but it shall appear by affidavit that the controversy is real, and the proceedings in good faith, to determine the rights of the parties; the court shall thereupon hear and determine the case at a general or special term, and render judgment thereon, as in civil actions.

§ 8. **Judgment, how entered—judgment-roll.** Judgment shall be entered in the judgment-book, as in other cases. The case, submission, and a copy of the judgment, constitute the judgment-roll, and judgment may be enforced in the same manner as if it had been rendered in an action, and is in the same manner subject to appeal.

CHAPTER LXXXIII.

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§ 1. **Boats or vessels, for what liable.** Every boat or vessel used in navigating the waters of this state is liable:

² M. 146 (175); ³ M. 124 (192.)

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

¹ M. 288 (390.)

Second. For all sums due for wharfage or anchorage of such boat or vessel within this state;

Third. For all demands or damages accruing from the non-performance or mal-performance of any contract of affreightment, or any contract touching the transportation of persons or property, entered into by the master, owner, agent or consignee of the boat or vessel on which such contract is to be performed; and,

¹⁰ M. 190 (242)

Fourth. For all injuries done to persons or property by such boat or vessel: *provided*, however, that in no case shall any boat or vessel be liable, as

aforesaid, for any debt contracted on account of work done or services rendered on board or for the benefit of such boat or vessel, until the contract therefor is fully and duly performed on the part of the person engaging to perform the same.

8 M. 72 (97.)

§ 2. **Action against boat or vessel, how brought.** Whoever wishes to institute an action against a boat or vessel shall file his complaint against such boat or vessel by name, with the clerk of the district court of the county in which such boat or vessel may be.

12 M. 465.

§ 3. **Requisites of complaint.** The complaint shall set forth the plaintiff's demand in all its particulars, and on whose account the same accrued; it shall be verified by the affidavit of the plaintiff, or some credible person for him.

1 M. 201 (256.)

§ 4. **Clerk shall issue warrant.** Whenever any such complaint is filed in the office of the clerk of the district court, he shall issue a warrant, returnable in twenty days, directing and authorizing the sheriff to seize the boat or vessel mentioned in the complaint, and detain the same in his custody, together with its tackle, apparel and furniture, until discharged from such custody by due course of law.

§ 5. **Proceedings on return of warrant.** Upon the return of the warrant issued by virtue of the preceding section, proceedings shall be had in the district court against the boat or vessel seized, in the same manner as if the action had been instituted against the person on whose account the demand accrued.

§ 6. **Who may appear and answer.** The master, owner, agent or consignee of the boat or vessel may appear on behalf of such boat or vessel, and answer the complaint.

§ 7. **Boat may be discharged, if bond is given.** If the master, owner, agent or consignee, before final judgment, gives bond to the plaintiff, with sufficient sureties to be approved by the court, or the judge or clerk thereof in vacation, conditioned to satisfy the amount which shall be adjudged to be owing and due to the plaintiff, in the determination of the action, together with all costs accruing, such boat or vessel, with the tackle, apparel and furniture belonging thereto, shall be discharged from further detention by the sheriff.

§ 8. **Court to make order of sale, when.** If judgment is rendered against any boat or vessel, in favor of the plaintiff, the court shall make an order, directed to the sheriff, commanding him to sell such boat or vessel, together with its tackle, apparel and furniture, to satisfy the judgment, and all costs that may have accrued in the cause, which order shall be executed and returned in the same manner as an execution.

§ 9. **Execution to issue against obligors in bond, when.** If a bond has been entered into according to the seventh section of this chapter, and judgment rendered in favor of the plaintiff, execution shall be issued for the amount of the judgment and costs, in favor of the plaintiff, against the principal and sureties in such bond.

§ 10. **Owner, etc., summoned to show cause, when.** Whenever judgment is rendered against any boat or vessel, in favor of the plaintiff, and such boat or vessel has been discharged from the custody of the sheriff prior to the rendition of such judgment, by the giving of bonds or otherwise, or when, from any cause whatever, said judgment, or any part thereof, remains unpaid for the period of sixty days, the masters and owners thereof, either or both—and in case the owner is a foreign corporation, then the officers, members, or stockholders of such corporation, or either or any of them—may be summoned, as is hereinafter provided, to show cause why he or they shall not be bound by the judgment in the same manner as if said action had been originally commenced and prosecuted to judgment against them.

§ 11. **Same—requisites of summons.** The summons provided for in the last section shall be subscribed by the judgment creditor, his representative or attorney, describe the judgment, and require the party summoned to show cause, within twenty

days after the service of the summons, and may be served in the same manner that a summons is served in civil actions.

§ 12. **Affidavit to accompany summons.** The summons shall be accompanied by an affidavit of the person subscribing it, that the judgment has not been paid or satisfied, to his knowledge, information or belief, and shall specify the amount due thereon.

§ 13. **Answer of party summoned.** The party summoned may answer, denying the judgment, or setting up any defence that may have arisen subsequent to the rendition of said judgment, and, in addition thereto, that he was not, at the time said cause of action arose against said boat or vessel, the master, owner or part-owner thereof, or that he was not, at the time said cause of action arose against said boat or vessel, or at any time since, an officer, member or stockholder of any foreign corporation which was the owner of such boat or vessel at the time said cause of action arose, but no other defence whatever.

§ 14. **Pleadings and trial.** The party issuing the summons may demur or reply to the answer, and the party summoned may demur to the reply, and the issue may be tried, and judgment and costs given, and enforced by execution, in the same manner as in civil actions.

§ 15. **Jurisdiction of justices of peace.** Justices of the peace, within their respective counties, have cognizance of all cases arising under this chapter, when the demand claimed does not exceed the sum of one hundred dollars.

§ 16. **Proceedings before justices, how governed.** In all their proceedings, justices of the peace shall conform to the provisions of law governing justices' courts, and as near as may be to the provisions of this chapter, as they apply in the district court.

§ 17. **Same—warrant—hearing—release on bond given.** Every warrant issued by a justice of the peace, under this chapter, shall be returnable forthwith; and, upon the return thereof, the justice shall hear and determine the action in a summary manner: *provided*, that if the master, owner, agent or consignee executes a bond to the plaintiff, with sufficient surety, to be approved by the justice, conditioned that he will satisfy the amount which may be adjudged to be owing and due to the plaintiff on the determination of the action, together with costs, then the boat, vessel, tackle, apparel and furniture seized by such warrant shall be discharged from custody.

§ 18. **Warrants, how served and returned.** All warrants issued under the provisions of this chapter shall be served and returned as writs of attachment are served and returned.

§ 19. **Power of officer under order of sale.** Whenever an order of sale is made for the sale of a boat or vessel, with its tackle, apparel and furniture, the sheriff or constable has power to sell such part thereof, or such interest therein, as shall be necessary to satisfy the amount of judgment rendered in favor of the plaintiff, and all the costs that have accrued.

§ 20. **Continuance, granted, when—effect.** Upon good and sufficient cause shown by the master, owner, agent or consignee of any boat or vessel sold under this chapter, the court or justice of the peace may grant a continuance of the cause; but no such continuance shall operate as a discharge of such boat or vessel from the custody of the sheriff or constable.

§ 21. **Plaintiff not entitled to continuance.** No continuance of a cause, under this chapter, shall be granted to the plaintiff.

§ 22. **Who may appeal.** In all cases arising under this chapter, if judgment is rendered in favor of the plaintiff, the master, owner, agent or consignee of the boat or vessel, or other person interested, may appeal from the judgment, as in other cases.

§ 23. **Actions to be commenced within one year.** All actions against a boat or vessel, under the provisions of this chapter, shall be commenced within one year after the cause of action accrues.