

CHANGES

IN THE

General Statutes of 1878,

OF THE

STATE OF MINNESOTA,

EFFECTED BY THE GENERAL LAWS OF THE EXTRA
SESSION OF 1881, AND THE REGULAR
SESSION OF 1883.

Arranged with reference to the Chapter and Section Amended.

SAINT PAUL:
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ing 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 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 hours after the entry of such [order,] 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, chapter sixty-five, of the General Statutes of eighteen hundred and seventy-eight; 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. (*Id.* § 5.)

See page 689.

JUSTICE'S CRIMINAL JURISDICTION.

§ 157. (SEC. 148.) **Complainant to pay costs, when.** Whenever the accused, tried under the provisions of this chapter, either by court or by a jury, shall be acquitted, he shall be immediately discharged, and if the court before whom the trial is had shall certify in his docket that the complaint was willful and malicious, and without probable cause, it shall enter a judgment against the complainant to pay all the costs that shall have accrued to the court and sheriff, or constable and jury, and the fees of witnesses in the proceeding had upon such complaint. The complainant may stay such judgment for thirty days, by giving satisfactory security by bond to the state, with one or more sureties, conditioned for the payment of such judgment at the expiration of thirty days; but if the complainant shall neglect to give such security, or shall neglect to pay such costs, then, in such case, the court before whom the cause is tried may issue execution on said judgment therefor; but the defendant in such judgment shall have the right of appeal therefrom, as in civil cases tried before a justice of the peace, and the case shall be tried and determined by the court on such appeal upon the records and evidence in the case duly certified and returned by the magistrate. (*As amended 1881, Ex. Sess. c. 32, § 1.*)

See page 700.

Add to § 159, (SEC. 150,) page 700:

Provided, that upon an appeal upon questions of law alone, the justice before whom the action is tried shall, upon the request of either party to the suit, return to the district court a true and certified transcript of all the evidence offered or received upon the trial, and the same shall be filed with the clerk of the district court as a part of the return of said justice. (1883, c. 61, § 1.)

CHAPTER LXVI.

CIVIL ACTIONS.

THE TIME OF COMMENCING.

Add to § 25, p. 709, the following:

That all the provisions of this title as to the time of the commencement of civil actions shall apply to municipal and all other corporations with like power and effect as the same applies to natural persons. (1881, *Ex. Sess. c. 24, § 1.*)

PLACE OF TRIAL—TRANSFER OF ACTION.

Add to § 49, (SEC. 40,) p. 713, the following:

Provided, that where defendants reside in different counties and appear and answer by different attorneys, the action shall, on motion, be transferred to the county agreed on by such defendants, or which is designated by the largest number of defendants who join in an answer. (1881, *Ex. Sess.* c. 25, § 1.)

THE ANSWER.

§ 97a. **Pleading counter-claim not admission of plaintiff's case.** The pleading of a set-off or counter-claim by a defendant in any action, in any of the courts of this state, shall not be held or construed to be an admission of any cause of action on the part of plaintiff against such defendant. (1883, c. 101, § 1.)

See page 721.

ATTACHMENT.

Change subdivision *fourth*, § 160, (SEC. 143,) p. 731, to read:

Fourth. By filing for record in the office of such register of deeds a satisfaction and discharge of such attachment executed by the plaintiff in said action, or by the attorney of record of the said plaintiff, in the same manner as is required by law for the execution of conveyances of real estate. (1883, c. 102, § 1.)

GENERAL PROVISIONS.

§ 257. (SEC. 239.) **Requests for instructions to jury, etc.** Any party may, and, if required by the court, shall, when the evidence is closed, submit in distinct and concise propositions the conclusions of facts which he claims to be established, or the conclusions of law which he desires to be adjudged, or both; and the court shall, upon request of either party, announce or state, before the argument of counsel to the jury, what requests or propositions so submitted will be given or refused by the court. They may be written and handed to the court, or, at the option of the court, oral, and entered in the judge's minutes; but, in either case, they shall be entered with any exceptions that may be taken, if either party requires it. (*As amended* 1883, c. 57, § 1.)

See page 748.

Add to § 262, (SEC. 242,) page 749, at the end of subdivision *first*, the following:

Provided, that an action on the same cause of action against any defendant shall not be dismissed more than once without the written consent of the defendant, or an order of the court on notice and cause shown. (1881, *Ex. Sess.* c. 26, § 1.)

Add to § 286, (SEC. 255,) page 752, the following:

Unless such revocation of authority has been so previously entered upon the register, the attorney of record may, at any time within two years after the judgment, satisfy and discharge the same and the lien thereof, by a brief entry to that effect made on the register, subscribed by such attorney, and witnessed and dated by the clerk of the court or his deputy. (1881, *Ex. Sess.* c. 33, § 1.)

THE EXECUTION.

§ 296. (SEC. 265.) **When returnable—renewals.** The execution shall be made returnable within sixty 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 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 days, the clerk may renew the same for a further period of sixty days, on the oral or written request of the judgment cred-

itor, or his attorney, by indorsing on said execution the words following: "Renewed sixty days from the date hereof, at the request of the judgment creditor;" to which indorsement 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 indorsed, 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 days, fully preserving all the levies made and rights acquired under the execution before such renewal; and such execution may be again so renewed, from time to time, by indorsement by the clerk, as aforesaid, with the same effect as such first renewal. (*As amended* 1871, c. 61, § 1, and 1881, *Ex. Sess.* c. 4, § 1.)

See page 754.

§ 309. (SEC. 278.) **Levy on goods or chattels pledged or mortgaged.** When goods or chattels are pledged or mortgaged for the payment of money, or the performance of any contract or agreement, the right and interest in such goods of the person making such pledge or mortgage may be sold on execution against him, and the purchaser shall acquire all the right and interest of the defendant or judgment debtor, and be entitled to the possession of such goods and chattels, on complying with the terms and conditions of the pledge or mortgage. (*As amended* 1883, c. 60, § 1.)

See page 756.

CHAPTER LXVIII.

HOMESTEAD EXEMPTION.

§ 3. **Homestead to be selected in case of levy.** Whenever a levy shall be made upon the lands or tenements of a householder whose homestead has not been selected or set apart by metes and bounds, such householder shall notify the officer at the time of making such levy of what he regards as his homestead, with a description thereof within the limits above prescribed, and the remainder alone shall be subject to sale under such levy: *provided*, that in case such householder shall refuse or neglect to make such selection within twenty days after notice of such levy, the officer making such levy shall cause to be surveyed and set off to such person entitled to such exemption in a compact form, including the dwelling-house and its appurtenances, the amount specified in the first section of this act; and the expenses of such survey shall be chargeable on the execution and collected thereupon. (*As amended* 1883, c. 59, § 1.)

See page 767.

§ 4. **Same—survey to be made, when.** If the plaintiff in the execution shall be dissatisfied with the quantity of land selected and set apart by such householder, as aforesaid, the officer making such levy shall cause the same to be surveyed, beginning at a point to be designated by the owner, and set off in a compact form, including the dwelling-house and its appurtenances, the amount specified in the first section of this act; and the expenses of such survey shall be chargeable on the execution and collected thereon. (*Id.*)

See page 768.

§ 5. **Sale to be made, when.** After the selection [or] survey shall have been made, the officer making the levy may sell the property levied upon, and not included in such homestead, in the same manner as provided in other cases for the sale of real estate on execution, and in giving a deed or certificate of the same may describe it according to his original levy, excepting therefrom by metes and bounds, according to the certificate of the survey, the quantity set off as such homestead, as aforesaid. (*Id.*)

See page 768.