

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:
WEST PUBLISHING COMPANY.
1883.

Note to *§ 11, page 843:

By chapter 98, Laws 1883, certificates made and recorded after the twenty days mentioned in said section are legalized.

Add to *§ 14, page 844:

Within twenty-four hours after such redemption is made, the party redeeming shall cause the documents so required to be produced to be filed in the office of the register of deeds of the county in which the mortgaged lands are situated, and the register of deeds shall indorse thereon the date and hour of receiving the same, and shall preserve such documents in his office for one year thereafter, for which service he shall be entitled to receive one dollar: *provided*, that in case such redemption shall be made at any place other than the county seat, it shall be deemed a sufficient compliance herewith to forthwith deposit such documents in the nearest post-office, addressed to such register of deeds, with the postage thereon prepaid. (*As amended* 1881, *Ex. Sess.* c. 3, § 1.)

Note to *§ 19, *§ 20, and *§ 23, page 845:

By chapter eighty-nine, Laws one thousand eight hundred and eighty-three, the affidavits authorized by these sections which have been or may be filed within one year from the passage thereof, are legalized and made evidence, and proceedings heretofore had without them are declared to be not invalid by failure to file and record the same within the time prescribed in said sections. (1883, c. 89, §§ 1, 2.)

*§ 26a. **Sheriff's certificate of sale on foreclosure made evidence—limitation for questioning.** That the sheriff's certificate of any sale, heretofore or hereafter made, under a power to sell contained in a mortgage, shall be *prima facie* evidence that all the requirements of law in that behalf have been duly complied with, and *prima facie* evidence of title in fee thereunder in the purchaser at such sale, his heirs or assigns, after the time for redemption therefrom has expired; and no such sale shall be held invalid or set aside by reason of any defect in the notice thereof, or in the publication or posting of such notice, or in the proceedings of the officer making such sale, unless the action in which the validity of such sale shall be called in question be commenced, or the defense alleging its invalidity be interposed, within five years after the date of such sale: *provided*, that persons under disability to sue by reason of being minors, insane persons, idiots, persons in captivity, or in any country with which the United States are at war when such sale was made, may commence such action or interpose such defense at any time within five years after the removal of such disability: *provided further*, that such actions shall be commenced with reasonable diligence in all cases. (1883, c. 112, § 1.)

*§ 26b. **When act to take effect.** That this act shall take effect and be in force from and after the first day of September, A. D. one thousand eight hundred and eighty-three. (*Id.* § 2.)

See page 845.

FORECLOSURE BY ACTION.

§ 34. (SEC. 31.) *Change line five (at top of page 847) to read:* Judgment or other lien creditors may redeem in the order and manner specified in title one. (*As amended* 1883, c. 25, § 1.)

See page 846.

CHAPTER LXXXIV.

FORCIBLE ENTRIES AND UNLAWFUL DETAINERS.

§ 7. **Adjournment of trial granted, when—security for rent.** The justice of the peace may, at his discretion, adjourn any trial under this chapter not exceeding six days; but in all cases mentioned in section eleven of this chapter, except a case

brought upon a written lease, signed and acknowledged by both parties thereto, when the defendant, his agent or attorney, makes oath that he cannot safely proceed to trial for the want of some material witness, naming him; that he has made due exertion to obtain said witness, and believes if such an adjournment is allowed he will be able to procure the attendance of said witness, or his deposition, in season to produce the same upon such trial; and if such person will give bond, with one or more sufficient sureties, conditioned to pay the said complainant for all rent which may accrue during the pendency of such action, and all costs and damages consequent upon such adjournment, the justice shall adjourn said cause for such reasonable time as appears necessary, not exceeding three months; but no such adjournment shall be allowed where the action is brought upon a written lease, executed as aforesaid. (*As amended 1881, Ex. Sess. c. 9, § 1.*)

See page 854.

§ 11a. **Tenants need not pay rent in certain cases.** The lessees or occupants of any building which shall, without any fault or neglect on their part, be destroyed, or be so injured by the elements, or any other cause, as to be untenable or unfit for occupancy, shall not be liable or bound to pay rent to the lessees or owners thereof after such destruction or injury, unless otherwise expressly provided by written agreement or covenant; and the lessees or occupants may thereupon quit and surrender possession of the leasehold premises, and of the land so leased or occupied. (1883, c. 100, § 1.)

See page 854.

§ 12. **Restitution—writ of.** No restitution shall be made under the provisions of this chapter of any lands or tenements of which the party complained of or his ancestors, or those under whom he holds the premises, have been in the quiet possession for three years next before the entering of the complaint, after the determination of the leasehold estate that he may have had therein; nor shall a writ of restitution issue in any case for twenty-four hours after judgment, if the party against whom judgment is rendered, or his attorney, states to the justice that he intends to take an appeal: *provided*, that if said action is brought upon a written lease, executed by both parties thereto, against a tenant holding over, after the expiration of said lease, restitution of said premises shall be made forthwith; and if the party against whom judgment is rendered, in such case, gives notice to the justice that he intends to take an appeal, the justice shall thereupon, as a condition to the issuance of the writ of restitution, require of the complainant a bond, with two sufficient sureties, conditioned that the complainant will pay all costs and damages, if on said appeal said judgment of restitution shall be reversed or a new trial ordered; and upon the filing of such bond the writ of restitution shall issue in the same manner as if no notice of appeal had been given. (*As amended 1881, Ex. Sess. c. 9, § 2.*)

See page 855.

§ 13. **Appeal and bond.** If either party feels aggrieved at the verdict of the jury, or decision of the justice, he may appeal within ten days, as in other cases tried before justices of the peace, except that in all cases where the party appealing remains in possession of the property, his bond shall be, with two or more sufficient sureties, to be approved by said justice, conditioned to pay all costs of such appeal, and abide the order the court may make therein, and pay all rent and other damages justly accruing to the party who is excluded from possession of the property during the pendency of such appeal. (*Id.* § 3.)

§ 14. **Stay of proceedings.** Upon the taking of such appeal, all further proceedings in the case shall be stayed, except in case of actions brought upon a written lease, for the recovery of possession of property, after the expiration of the term thereof, in which case the writ of restitution shall issue the same as if no appeal had been taken, upon the execution and filing of a bond by the complainant as hereinbefore provided; and the appellate court shall thereafter issue all needful writs

and processes to carry out the provisions of this chapter according to the true intent and meaning thereof. (*Id.* § 4.)

§ 15. **Appeal after issuance of writ—certificate—stay.** If a writ of restitution has been issued previous to the taking of an appeal, as provided in this chapter, the justice shall forthwith give the appellant a certificate of the allowance of such appeal, except in case where judgment has been entered in an action brought upon a written lease to recover possession of the property therein described, after the expiration of such lease. Upon the service of such certificate upon the officer having such writ of restitution, the said officer shall forthwith cease all further proceedings by virtue of such writ, except in the cases as hereinbefore provided; and, if such writ has not been completely executed, the defendant shall remain in the possession of the premises until the appeal is determined, except in case where the action is brought upon a written lease to recover possession after the expiration of the term in said lease specified. (*Id.* § 5.)

See page 855.

CHAPTER LXXXVIII.

ATTORNEYS AND COUNSELORS.

§ 4a. **Admission on certificates—when.** All persons who shall have been admitted to practice in the supreme court of any other state or territory, and who shall have become residents of this state, may be admitted to the bar of all the courts of this state, upon production of their certificates of admission to practice in the courts of such other state or territory. (1883, c. 104, § 1.)

§ 4b. **Admission of non-residents for special cases.** Any person who has been so admitted to practice in any other state or territory, wherein he shall be still residing, and who shall, as an attorney or counselor, attend any term of the supreme court or of any district court of this state, for the purpose of trying or participating in the trial or proceedings of or in any action or special proceeding then and there pending, may, upon motion of any attorney or counselor of such court, and without examination as to his qualifications, be, by an order to be entered upon the minutes of the presiding judge, licensed and admitted to practice in and for the purposes of such action or special proceeding only. (*Id.* § 2.)

See page 864.

CHAPTER XC.

LIENS.

Add to § 1, page 871:

Provided, that whenever any labor is performed, or materials or machinery furnished, as in this section provided, by or with the knowledge and consent of a married woman, who is the owner of the property benefited thereby, upon the order of her husband, such knowledge and consent shall be sufficient to establish that such husband acted therein as the agent of the wife. (1883, c. 43, § 1.)

CHAPTER XCIV.

OFFENSES AGAINST LIFE AND PERSON.

*§ 3. **Death penalty for murder in first degree restored—exception.** Whoever is guilty of murder in the first degree shall suffer the punishment of death: *provided*, that if in any such case the court shall certify of record its opinion that