

GENERAL STATUTES

OF THE

STATE OF MINNESOTA

36

IN FORCE

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COMPLETE IN TWO VOLUMES.

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VOLUME 2, Supplement.—Changes effected in the General Statutes of 1878 by the General Laws of 1879, 1881, 1881 Extra, 1883, 1885, and 1887, arranged by H. J. HORN, Esq., with Annotations by STUART RAPALJE, Esq., and others, and a General Index by the Editorial Staff of the NATIONAL REPORTER SYSTEM.

VOL. 2.

SUPPLEMENT, 1879-1888,

WITH

ANNOTATIONS AND GENERAL INDEX TO BOTH VOLUMES.

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***§ 44. Appointment of assignee—Notice.**

Such assignee or receiver shall, within ten days after his appointment, publish a notice in a daily newspaper published at the capital of this state, and also in a daily or weekly newspaper in the county where the debtor, debtors, or any of them, reside, if any is there published, and by sending notices through the mail to such creditors whose residences are known to the assignee or receiver of his appointment, and all creditors claiming to obtain the benefits of this act shall file with such assignee or receiver their claims, within twenty days after such publication. (*Id.* § 11.)

See *Adamson v. Cheney*, 35 Minn. 474, 29 N. W. Rep. 71.

***§ 45. Preferred debts.**

After the payment of costs, as herein provided, debts due the United States, the state of Minnesota, all taxes or assessments levied and unpaid, expenses of the assignment and executing the trust, the assignee or receiver shall pay in full, if sufficient then remains for that purpose, the claims duly proven of all servants, clerks, or laborers, for personal services or wages owing from said debtor, for services performed for the three months preceding said assignment, not exceeding fifty dollars in each case, and the balance of said estate shall then be equally distributed among the general creditors thereof, under the direction of the court. (*Id.* § 12.) *See laws '89 for § 12, 13*

*Amend § 4
Ch 30 '89*

***§ 46. Attachment, etc., from justices' courts.**

Whenever, at the time of the appointment of a receiver, under sections one or two of this act, the property, or any part thereof, of said insolvent debtor is under attachment, levy, or garnishment, by virtue of any writ or process issued by any justice of the peace of this state, said attachment, levy, or garnishment shall be dissolved in the same manner as when said attachment, levy, or garnishment is by virtue of any writ or process issued by any court of record of this state, and the plaintiff therein, and the officer making the same, shall thereafter have the same rights, and no greater rights, by virtue thereof, and the attachment, levy, or garnishment shall thereafter be proceeded with in the same manner as though the same had been made by virtue of a writ or process issued out of a court of record of this state: *provided, however*, that section one shall not apply to any case when an execution has been issued upon a judgment in an action wherein the complaint has been filed with the justice of the peace twenty days prior to the date of the levy upon said execution. (*Added to c. 148, Laws 1881, supra; 1885, c. 70.*)

This act is not retrospective so as to affect levies made prior to its passage under attachments issued out of justice's court. *Parkinson v. Brandenburg*, 35 Minn. 294, 28 N. W. Rep. 919. Where a statute provides that it shall take effect "from and after its passage," it does not take effect on the day of its passage. *Id.*

CHAPTER 42.

OFFICIAL TRUSTS.

§ 1. Corporate authorities—Judge—Conveyance.

A county or other municipal corporation, capable of acquiring and holding real estate, if in the actual occupancy of any part of a town-site, is capable of becoming a beneficiary under the provisions of the act of congress of May 23, 1844, commonly known as the "Town-Site Act." *County of Blue Earth v. St. Paul, etc., R. Co.*, 28 Minn. 503, 11 N. W. Rep. 73.

The entry of the town-site relates back to the date of the proof, and one settling upon the land after that date cannot thereby acquire the right of an occupant entitled to the benefit of the act. *Leech v. Rauch*, 3 Minn. 448, (Gil. 333.) See, also, *Foster v. Bailey*, 1 Minn. 436, (Gil. 310.)

A right to have lands entered as a town-site, under the act of congress, may be lost by abandonment of the occupancy, so that other persons may enter upon and occupy them, and become entitled to have them entered as a town-site for their benefit; and this is the case even where the prior occupants made and recorded a town plat of the lands. *Weisberger v. Tenny*, 8 Minn. 456, (Gil. 405.)

§ 4. Claimants to file statements.

That this section does not include minors, so as to bar them in case of failure to file a statement, see *Coy v. Coy*, 15 Minn. 119, (Gil. 90.)

This section does not require that a claim for lands dedicated for streets, etc., in a town-site, should be filed on behalf of the public with the trustee. *Village of Mankato v. Willard*, 13 Minn. 13, (Gil. 1.)

§ 11. Conveyances—When to be executed.

[Amended as to Blue Earth county by adding the following proviso: "*And provided, further*, that in case no such conveyance or controversy, of or concerning any certain lots, blocks, parcels, or shares of said lands has been made or had, then, upon the application of any person or persons claiming the same, the judge of the district court shall, on such notice as he shall prescribe, summon before him such claimant or claimants, and all other claimants thereto, and cause such proofs to be adduced by oral testimony, affidavit, deposition, or otherwise, as shall be satisfactory to him, as to the person or persons properly entitled to the same; and whenever it shall be thus determined, to his satisfaction, who are the person or persons thus entitled to any such lots, blocks, parcels, or shares of said lands, then the said judge shall, upon like demand or request, and like payment or tender, execute to such person or persons a deed of conveyance thereof, as prescribed in the second section of this chapter." (1885, c. 24, § 1.) See *post*, § 16.]

§ 16. Successor of judge—Execution of trust.

[Amended as to Blue Earth county, by adding the following: "And whenever neither the judge so entering lands, nor his successor in office, has fully executed such trust, any district judge shall succeed to such trust as to all such trust lands within his judicial district, and he shall have authority, and it shall be his duty, to execute the same, and make all the conveyances in this chapter prescribed, as fully as if he had originally entered such lands in trust: *provided*, that the provisions of these amendments* shall apply only to Blue Earth county: *and provided, further*, that nothing contained in these amendments shall be construed to apply to or in any manner affect that part or portion of the town-site of Shelbyville, in said county of Blue Earth, to which J. S. Wallace has or claims some estate, right, title, or interest, unless he consents thereto." (1885, c. 24, § 2.)]

* See § 11, *ante*.