GENERAL STATUTES

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OF THE

STATE OF MINNESOTA

IN FORCE

JANUARY 1, 1889.

COMPLETE IN TWO VOLUMES.

VOLUME 1, the General Statutes of 1878, prepared by GEORGE B. YOUNG, edited and published under the authority of chapter 67 of the Laws of 1878, and chapter 67 of the Laws of 1879.

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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had acquired, his habits of industry, his ability to make money, and his success in business, is proper as a basis for the damages. Shaber v. St. Paul, M. & M. Ry. Co., 28 Minn. 103, 9 N. W. Rep. 575.

Measure of damages, see Morris v. Railroad Co., 26 Fed. Rep. 22; Collins v. Davidson, 19 Fed. Rep. 83, (action under the Minnesota statute.)

See In re Hardy, 35 Minn. 193, 28 N. W. Rep. 219; Meese v. City of Fond du Lac, (Wis.) 4 N. W. Rep. 406; James v. Emmet Min. Co., (Mich.) 21 N. W. Rep. 361; Phillips v. Railroad Co., (Wis.) 25 N. W. Rep. 544; Blakeley v. Le Duc, 22 Minn. 476.

§ 5.   Liability of executor de son tort.

An administrator cannot maintain an action for trespass upon real property, committed after the death of an intestate, unless he has first asserted his right under the statute by taking possession of such real property. But if he takes possession, he may then maintain an action for a trespass committed thereon before he took possession, and after the death of his decedent. In such case his possession, as well as his letters of administration, relate back to the death of his intestate. Noon v. Finnegan, 29 Minn. 419, 13 N. W. Rep. 197. And see same case, 32 Minn. 81, 83, 19 N. W. Rep. 391.

§ 6.   Action by foreign executor, etc.

His failure to file his appointment before the commencement of an action cannot be cured (if proper objection is taken) by a filing after such commencement. Fogle v. Schaeffer, 23 Minn. 304.

See Pott v. Pennington, 16 Minn. 509, (Gil. 460, 461;) Brown v. Brown, 35 Minn. 191, 28 N. W. Rep. 238.

§ 13.   Heirs and devisees—Liability for debts.

The debts upon which actions are allowed by c. 53, Gen. St., are the same as those, actions upon which are the subject of c. 77. Bryant v. Livermore, 20 Minn. 313, (Gil. 271.)

Where commissioners to audit claims against an estate are appointed and a claim proper to be passed on by them is presented to and disallowed by them, and no appeal taken, such claim cannot be enforced by action against real estate descended to the heirs, whatever irregularities there may have been in the appointment of, and in the action of, the commissioners, or subsequent to their report, and though the claimant was ignorant of the report till more than two years thereafter, and after the administrator was discharged. Bryant v. Livermore, 20 Minn. 313, (Gil. 271.)

CHAPTER 78.

ACTIONS ON OFFICIAL SECURITIES AND TO RECOVER FINES AND FORFEITURES.

§§ 1-3.   Official bonds—Action—Leave.

Sections 1, 2, and 3 apply to constables' bonds. Litchfield v. McDonald, 35 Minn. 167, 28 N. W. Rep. 191. The leave required is no part of the cause of action, and the statute of limitations commences to run from the same time that it would if no such leave were required. Id.

See Board of Co. Com'rs v. Smith, 22 Minn. 97, 110.

§ 10.   Prosecutions for fines, etc.

A prosecution before a justice of the peace for obstructing a public highway is a criminal action. State v. Cotton, 29 Minn. 187, 12 N. W. Rep. 529. In such case, where the defendant is owner of the soil, and disputes the legal existence of the public easement, the question of title to real estate is involved. The plea of "not guilty" in such case does not show the question of title to be involved, but it must be made to appear by the evidence given or offered. Id.