

SESSION LAWS.

The Fourth Session of the Legislative Assembly of the Territory of Minnesota was convened in pursuance of law, on Wednesday, the fifth day of January, 1853, and adjourned on Saturday, the fifth day of March, 1853.

ALEXANDER RAMSEY, Governor; MARTIN McLEOD, President of the Council; DAVID DAY, Speaker of the House of Representatives,

CHAPTER I.—AN ACT to authorize the exercise of all equity jurisdiction in the form of civil actions, and for other purposes.

March 5, 1853.

Be it enacted by the Legislative Assembly of the Territory of Minnesota, All equity and chancery jurisdiction, authorized by the organic act of the Territory, shall be exercised, and all suits or proceedings to be instituted for that purpose are to be commenced, prosecuted, and conducted to a final decision and judgment, by the like process, pleadings, trial, and proceedings as in civil actions, and shall be called civil actions.

Equity proceedings as in civil actions.

SEC. 2. All suits, applications and proceedings, now authorized by statute to be commenced, prosecuted, and conducted in chancery, or enforced by chancery jurisdiction, including the foreclosure and satisfaction of mortgages, shall hereafter be commenced, prosecuted, and conducted to a final decision and judgment, by the like process, pleadings, trial and proceedings, as in civil actions.

Suits, etc., how conducted.

SEC. 3. The district court, or any judge thereof, may grant writs of ne exeat, and injunction in all civil actions, on complaint, and when a counter claim or equities in the nature of a counter claim are set up in an answer, then on such answer, and in such case there may be annexed to the duly verified complaint or answer, affidavits of persons other than the party, tending to show the truth of the facts and allegations relied upon for the allowance of such applications.

Ne exeat and injunction how granted.

SEC. 4. Such writs of ne exeat and injunction may be granted in the progress of any action, at any time before the final decision, judgment or decree therein, either by petition duly verified, or on affidavits, or both, provided that no injunction shall issue to stay proceedings in any civil action before final decision therein.

SEC. 5. All equities existing at the time of the commencement of any action, in favor of a defendant therein, or discovered to exist after such commencement or intervening before a final decision,

Equities, how interposed.

in such action, shall be interposed if at all by way of defence to the action by answer or supplemental answer in the nature of a counter claim, and issue taken thereon by a reply or supplemental reply thereto, and be determined as the other issues in said actions.

Counter claim.

SEC. 6. In all civil actions commenced after this act shall take effect, when the party prosecuted has equities, claims, or demands which could heretofore only be enforced by cross action or cross bill, the same shall be interposed by way of answer in the nature of a counter claim, and the plaintiff may reply thereto, and put the same in issue. And if the same be admitted by the plaintiff, or the issue thereon be determined in favor of the defendant, he shall be entitled to such relief, equitable or otherwise, as the nature of the case demands, by judgment, or otherwise.

Discovery, how enforced.

SEC. 7. Whenever equity and justice requires a discovery which could before this act took effect be enforced by a bill or cross bill, such discovery may be compelled to be made under the oath of the parties of whom the discovery is sought, either by a verified complaint or answer, setting forth therein specifically the matters upon which a discovery is required, and the party seeking such discovery may have the answer or reply stricken out for insufficiency, and compel a further answer, or reply, in case such pleading does not contain the full and complete discovery sought, or give a good and sufficient reason for not making such discovery.

Bonds &c., may be required.

SEC. 8. In all cases wherein chancery suits and proceedings were authorized before this act took effect, and in which bonds, undertakings, or other securities were or might be required, the same may be hereafter required in the civil actions substituted therefor by virtue of this act.

Receivers may be appointed.

SEC. 9. In all civil actions wherein receivers may be necessary, or where in chancery suits or proceedings they were authorized to be appointed previous to this act taking effect, they may hereafter be appointed, if necessary, and they may be required to give such securities for the faithful performance of their duties, and the discharge of their trusts, as by law, rule of court, or former practice, were authorized.

Referees authorized.

SEC. 10. In all cases where, in chancery before this act took effect, masters and examiners were required to act, or might have acted, the like acts and duties shall and may hereafter be performed when necessary, by a referee or referees appointed as in civil actions.

Rules of Court and defects provided for.

SEC. 11. The Supreme Court shall have the power to provide general rules for its own conduct, and the conduct of the District Courts of the Territory, and the Judges thereof and other officers of said Courts, and to carry into effect legal rules and statutory provisions; and also to supply defects or omissions in practice, in respect to the commencement, prosecution and conducting all civil actions, special proceedings, appeals, writs of error and certiorari, and all other writs and statutory proceedings: *Provided, always,* That no legal rule or statutory provision is to be violated or abrogated thereby.

Relative to appeals.

SEC. 12. All the statutory provisions authorizing appeals in civil actions, and appeals in chancery existing before the passage of this act, which are necessary and applicable, may be applied and used in appealing causes which under this act are intended to be conformed to and are called civil actions.

SEC. 13. All the provisions respecting fees, costs, and disburse-

ments, in civil actions and appeals, in force at the time of the passage of this act, shall be applicable to the civil actions, proceedings and appeals authorized by this act, and all provisions for fees, costs, and disbursements in chancery suits and proceedings are hereby abolished: *Provided*, That in actions for the foreclosure of mortgages and for the partition of real property, where no issue is joined, the costs of the plaintiff shall be the same as if issue had been joined therein.

Taxes and costs.

SEC. 14. The Court of Chancery and the right to commence or institute chancery suits and proceedings, and all statutes and statutory provisions inconsistent with this act, shall be, and are hereby abrogated and abolished: *Provided, however*, That this act shall not apply to suits and proceedings commenced before this act takes effect, which shall be prosecuted and conducted to a final determination under the laws as they existed previous to the existence of this act.

Chancery proceedings abolished.

SEC. 15. This act shall take effect from and after its passage.

DAVID DAY,

Speaker of the House of Representatives.

MARTIN McLEOD,

President of the Council.

APPROVED—March fifth, one thousand eight hundred and fifty three.

ALEX. RAMSEY.

SECRETARY'S OFFICE,

St. Paul, March 16, 1853. }

I hereby certify the foregoing to be a true copy of the original on file in this office.

ALEX. WILKIN,

Secretary of the Territory of Minnesota.

CHAPTER II.—AN ACT to amend the Revised Statutes, passed March 31st, 1851.

March 5, 1853.

Be it enacted by the Legislative Assembly of the Territory of Minnesota, That the Revised Statutes of said Territory be, and the same are hereby amended as follows:

Statutes amended.

SEC. 1. Section 1 of article 7, chapter 8, page 72, is hereby amended so as to read as follows:

SEC. 1. The qualified electors in each of the organized counties of the Territory, shall at the annual election elect a surveyor, who shall hold his office for two years and until his successor shall be elected and qualified; and who shall reside in the county for which he shall have been elected, and shall previous to his entering upon the duties of his office, take and subscribe an oath or affirmation faithfully to discharge the duties of the same, and shall give bond to the clerk of the board of county commissioners of the proper county, in the sum of five hundred dollars, conditioned for the faithful discharge of his duties.

Surveyors to be elected, to take an oath and give bond

SEC. 2. Section 1 of chapter 64, page 269, is hereby amended so as to read as follows:

SEC. 1. Every conveyance or assignment in writing or other-