

CHAPTER XIV.

An Act to extend the Jurisdiction of Justices of the Peace.

SECTION 1. Justices of the Peace to have jurisdiction in civil actions against Constables, or their sureties.

Be it enacted by the Legislature of the State of Minnesota :

SECTION 1. That Justices of the Peace have jurisdiction in all civil actions to be brought against a Constable or the sureties to his official undertaking, or against both, for the failure of any Constable to pay over any money by him collected, to the party thereto entitled, or for any neglect of duty by such Constable in his official capacity, when the sum sought to be recovered by the plaintiff in such action shall not exceed one hundred dollars.

GEORGE BRADLEY,

Speaker *pro tem.* of the House of Representatives.

RICHARD G. MURPHY,

President *pro tem.* of the Senate.

Approved February second, one thousand eight hundred and fifty-eight.

CHAS. L. CHASE, Acting Governor.

SECRETARY'S OFFICE, Minnesota, }
February 2, 1858. }

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

CHAS. L. CHASE, Secretary.

CHAPTER XV.

An Act to provide for the issuing of Commissions to take testimony by Justices of the Peace.

- SECTION 1. Justices authorized to appoint Commissioners to examine witnesses not residing in county when suit is pending.
2. Commission to be granted at instance of either party—notice to adverse party.
 3. Execution and return of commission to be evidence on trial.
 4. Power of Commissioner to issue subpoena, swear witnesses, &c.
 5. Issuing of commissions not to adjourn suit more than ninety days except by consent.
 6. Fees for issuing commissions.

Be it enacted by the Legislature of the State of Minnesota :

SECTION. 1. Whenever an issue of fact shall have been

Commissioners
to be appointed
to take depositions

joined, in any action or suit, before a Justice of the Peace, and it shall appear on the application of either party, that any witness not residing within the county where such suit is pending, is material in the prosecution or defence of such action or suit, the said Justice may award a Commission to one or more competent persons authorizing them or any of them to examine such witness on oath upon the interrogation settled by the said Justice, and certified by his approbation, entered or endorsed thereon, or by the written agreement or assent of the parties annexed to such commission, to take and certify the depositions of such witness, and to return the same according to the directions given, with such commission, in which commission both parties may unite.

Assent of parties
thereto

Commissioners
may be granted
on notice to adverse party

SEC. 2. Such commission may be granted at the instance of either party by such Justice of the Peace, at any time, upon proof that due notice of such application for such commission has been served on the adverse party at least two days before the time of making such application—and whenever the defendant shall neglect to appear or plead in such action or suit, and the plaintiff shall make application for a commission to take the deposition of a material witness for the prosecution of such action or suit, the Justice may award a commission without notice to one or more competent persons, to examine such witness on oath upon interrogations proposed by the plaintiff to be settled by the Justice, and certify the depositions, and return the same according to the directions given in such commission.

Failure to appear
on notice

Deposition to be
evidence same as
personal examination

SEC. 3. The commission shall be executed and returned as is prescribed by statute when a commission issues out of a Court of Record, and the deposition and testimony taken in pursuance thereof, shall be received on the trial, as testimony in the cause, with the like effect, as if such witness were personally examined at such trial.

Commissioners
may issue subpoenas &c

SEC. 4. When the commission is executed in this State, the Commissioner or Commissioners, shall have the same power to issue subpoenas, swear witnesses, and compel their attendance as Justices of the Peace have.

Adjournment of
suit

SEC. 5. Whenever such commission shall be issued by any Justice of the Peace, the action or suit shall not be adjourned for more than ninety days, unless by consent and agreement of the parties of such action or suit.

Fees for issuing
commissions

SEC. 6. The Justice of the Peace shall be entitled to fifty cents for every commission issued and approved by him, in addition to the fees now allowed by law.

GEORGE BRADLEY,

Speaker *pro tem* of the House of Representatives.

RICHARD G. MURPHY,

President *pro tem* of the Senate.

APPROVED—March third, eighteen hundred and fifty-eight.

CHAS. L. CHASE, Acting Governor.

SECRETARY'S OFFICE, Minnesota, }
March 3, 1858. }

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

CHAS. L. CHASE, Secretary.

CHAPTER XVI.

An Act authorizing a change of Venue in Justices' Courts.

SECTION 1. Amendments to Sec. 65, Art. 4, Chap. 84. Revised Statutes—manner of obtaining change of Venue.

Be it enacted by the Legislature of the State of Minnesota :

SECTION 1. Section 65 of Article IV of Chap. LXIX of the Revised Statutes, on page 308, is hereby amended so as to read as follows : Sec. 65. If, on the return of the process, or at any time before trial shall have commenced in any cause or proceeding, civil or criminal, either party, his agent or attorney, shall make affidavit that the Justice before whom the same is pending is a material witness for said defendant, without whose testimony he cannot safely proceed to a trial thereof ; or that from prejudice, bias, or other cause, he believes such Justice will not decide impartially in the matter ; or if it shall be proven that the Justice is near of kin to the plaintiff, then, in such case, the said Justice shall transfer said suit and all other papers appertaining to the same to some other Justice of the same or an adjoining precinct, who may thereupon proceed to hear and determine the same in the same manner as it would have been lawful for the Justice before whom the said cause or proceeding was commenced to have done. *Provided*, That no cause or proceeding shall be removed more than once.

GEORGE BRADLEY,

Speaker of the House of Representatives.

RICHARD G. MURPHY,

President *pro tem.* of the Senate.