

CHAPTER XI.

An Act Suspending the Privilege of all persons aiding the rebellion against the United States, of prosecuting and defending actions and judicial proceedings in this State.

- SECTION 1. Persons engaged in aiding the rebellion against the Government of the United States, prohibited from bringing suits in any of the courts of this State.
2. Who shall not be permitted to appeal or bring writ of error in any action during continuance of said rebellion.
 3. If judgment be rendered in favor of such persons, clerk shall enter order staying all proceedings.
 4. Issue of facts—how made up—what may be alleged—denial must be specific—pleadings must be verified by oath—who authorized to administer oaths.
 5. Citizens of what States deemed to be *prima facie* engaged in aiding the rebellion.
 6. When defendant not permitted to plead in any proceeding or action in this State.
 7. When plaintiff not permitted to plead in any action or proceeding in this State.
 8. Foreclosure of mortgages—how restrained.
 9. Judgments for disbursements—how recovered.
 10. What to be constituted a contempt of court.
 11. Act, when to take effect.

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

Who prohibited
from bringing
suits in any of
the courts of this
State

SECTION 1. No suit, action, or judicial proceeding whatever, shall be hereafter brought, commenced, instituted or defended in any of the courts of this State, by, on behalf of, or for the use or benefit of any person or persons who heretofore have been, now are or hereafter may be engaged in aiding or abetting the rebellion (now existing,) against the Government of the United States, during the existence of said rebellion; nor shall any suit, action or proceeding in any of said courts now pending, wherein any of said persons are parties plaintiff, or joined as plaintiff with any other person, or which is brought for the use or benefit of any of said persons, be further prosecuted upon the merits, but the same shall abate, unless judgment shall have been already entered in such action or proceeding; and if judgment shall have been entered in favor of such person or persons, all proceedings in such suit, action or proceeding shall be stayed, and no further proceeding on such judgment shall be had, by execution or otherwise, during the continuance of said re-

bellion; nor shall any such person during the continuance of said rebellion, foreclose any mortgage, by advertisement or otherwise, in this State, or proceed any further in the foreclosure of any mortgage in any manner where proceedings for that purpose have been already commenced, but all such further proceedings shall be absolutely void.

SEC. 2. No person who heretofore has been, now is, or hereafter may be in anywise engaged in aiding or abetting the said rebellion, shall hereafter be permitted to defend upon the merits any suit, action or proceeding in any of the courts of this State during the continuance of said rebellion, whether such suit, action or proceeding shall have been heretofore commenced or not, but in all such cases an issue of fact upon the question of such person aiding and abetting said rebellion may be made; and in actions which have not been tried such issue shall be first tried; and in any such action or proceeding which has been tried but in which judgment has not been rendered, or where judgment has been rendered and an appeal from the judgment or a writ of error has not been brought, and the time for bringing an appeal or writ of error has not expired, or where judgment being in favor of such person, and the time for bringing an appeal or writ of error has expired, such issue of fact may be made by subsequent pleadings, and shall be tried by jury as other issues of fact are tried, and if the same is found against such person he shall not be permitted to appeal or bring a writ of error in such suit, action or proceeding during the continuance of said rebellion, and the court shall immediately order a stay of all proceedings on the part of such person; and if judgment shall not have been entered, such person shall be defaulted and the plaintiff may proceed as in other cases of default.

Who prohibited
from bringing
writ of error

SEC. 3. In any suit, action or proceeding which shall have been removed to the Supreme Court by an appeal from a judgment or by writ of error, but in which judgment shall not have been rendered against such person in that court, nor which shall have been remanded to the court below, such issue may be made in the Supreme Court in vacation as well as in term, and when the issue is made up, an order of course shall be entered by the clerk of that Court remitting such issue to the court below, and the same with a certified copy of the pleadings, shall be im-

When to issue or-
der staying pro-
ceedings

mediately sent to the district court of the county from which the action was removed for trial, and the issue shall be there tried and the finding immediately certified to the Supreme Court, and if such issue be found against such person, and judgment shall not have been entered in the Supreme Court, he shall be defaulted, whether in vacation or in term, and his default entered by the clerk, and thereupon such further proceedings may be had as in other cases of default; but if judgment shall have been rendered in favor of such person an order of course shall be entered by the clerk staying all proceedings thereon. If the action shall have been remanded to the court below, the same proceedings shall be had in that court as if such action had not been removed to the Supreme Court.

SEC. 4. In making up the issue of fact herein referred to, and in all cases arising under this act, it shall be sufficient to allege generally that such person, naming him, is a resident, citizen or inhabitant of any of the States mentioned in section five of this act, naming such State, or that such person, naming him, has been or is, as the case may be, engaged in aiding and abetting said rebellion, or both these facts may be alleged; the denial must be direct and specific, with an averment of the place of residence and citizenship of such person, and that he always has been and is loyal to the Government of the United States; the allegations may be upon information or upon belief; the denials must be positive; the pleadings must be verified in the usual form, except that containing the denial must be verified by the oath of the party himself, and may be verified in any district, territory, or State of the United States, and if verified in any of the States specified in section 5 of this act, the verification may be made before any officer of the rank of colonel in the federal army, who for that purpose is hereby authorized to administer such oath, and must be served in the same manner and within the same time as pleadings in other cases, except that the court where the issue is being made up, or a judge thereof, may, upon notice and motion, allow such reasonable time as in the ordinary course of the mail would enable the party pleading the denial to verify his pleading and serve the same. The pleadings, immediately after the service thereof, respectively, must be filed with the clerk of the

Issue of facts—
what may be al-
leged— who au-
thorized to ad-
minister oaths

court where the issue is being made up, and immediately upon filing the pleading charging that any person or party to the action, or for whose use it is prosecuted or defended, is a resident, citizen or inhabitant of any of the States specified in section 5 of this act, or has been, or is engaged in aiding or abetting said rebellion, such clerk must enter an order of course staying all proceedings in the action on the part of the person so charged, until the determination of such issue, except such as may be necessary for the making and trial thereof; and if judgment shall have been entered in favor of such person, also staying execution thereon, and all proceedings on any execution before issued; and no further proceedings on the merits in the action shall be had until such issue shall be disposed of; and if the pleading containing the denial is not served and filed within the time prescribed in this act, the same order and judgment shall be entered of course by the clerk as by this act is authorized to be made and entered upon the finding of such issue against the person so charged.

SEC. 5. All citizens, residents and inhabitants of either the state of Alabama, Arkansas, Florida, Georgia, Louisiana, Mississippi, North Carolina, South Carolina, Tennessee, Texas, that part of Virginia lying east of the Blue Ridge Mountains, or of any District, Territory or State, or part thereof, which shall hereafter be by proclamation of the President of the United States declared to be in a state of insurrection or rebellion, (except persons therein engaged in the military service of the United States,) shall be deemed, held and taken within the true intent, meaning and purpose of this act to be *prima facie* engaged in aiding and abetting the rebellion aforesaid.

Who deemed to
be engaged in
the rebellion

SEC. 6. Any plaintiff in any proceeding or action hereafter brought, or which has been heretofore commenced in any of the courts of this State, whether the same has been tried or not, may in his complaint, or if the action has been commenced but not tried, in a supplemental complaint, which is hereby authorized for that purpose, or if the action has been tried, then in a subsequent complaint which is hereby authorized for that purpose, allege that the defendant in the action, or the person or persons for whose use the action is defended, naming such person, is a resident, citizen or inhabitant

When defendant
not permitted to
plead

of any of the States mentioned in section 5 of this act, naming such State, or that such defendant or person has been or is engaged in aiding and abetting the said rebellion, and the allegations so made shall be taken to be and held as *prima facie* true, notwithstanding a denial thereof, in the answer; the defendant may answer thereto, but if he shall not have already answered in the action, he shall not be required nor permitted to plead or answer to the merits or to interpose any counter claim therein, until the issue upon such allegations, if any is made, shall be determined, nor shall any further proceedings on the merits in such action be had after filing the complaint containing such allegations, until such issue is disposed of; and if the defendant fail to answer such allegations within the time provided in this act, or if the issue thereon made, be found against him, he shall be immediately defaulted and excluded the court, and shall not be permitted further to defend or appear therein, either by himself or by attorney, during the continuance of said rebellion; and if the action has not been tried on its merits, the plaintiff may proceed to judgment as for want of an answer; and if judgment shall have been entered in favor of such person, an order must be entered staying all proceedings on such judgment and execution thereon, if any, during the continuance of said rebellion.

When plaintiff
not permitted to
plead

SEC. 7. Any defendant against whom an action may be brought, or in any action or proceeding heretofore commenced in any of the courts of this State, whether the same shall have been tried or not, may, if the action has not been tried, in his answer or supplemental answer which is hereby authorized for that purpose, or if the action has been tried, then by a subsequent answer which is hereby authorized for that purpose, allege that the plaintiff or plaintiffs therein, or one or more of such plaintiffs, or the person or persons for whose use the action is brought, or some of them are residents, citizens or inhabitants of any of the States, naming it, specified in section 5 of this act, or that the plaintiff or plaintiffs, or some of them, or the person or persons for whose use the action is brought, or some of them, have been or are engaged in aiding and abetting said rebellion, therein in either case, naming such person or persons, and the allegations so made shall be taken to be and held *prima facie* true, notwithstanding a denial thereof in the

reply; and the party against whom such allegations are made, may in his reply, which is hereby authorized for that purpose, deny such allegations of such answer, and the issue thus formed, shall be tried by a jury and determined as other issues of fact are now authorized by law to be tried; and if such issue be found against such person, and judgment shall not have been rendered in the action, the court must enter an order dismissing such action; and another action for the same cause of action, or any part thereof, shall not be brought during the continuance of said rebellion; if judgment shall have been rendered in favor of such person, the court must order a stay of all proceedings thereon, during the continuance of said rebellion; but if such issue be found in favor of such person in any case arising under the provisions of this act, the action shall then proceed as in other cases.

SEC. 8. If proceedings heretofore commenced for the foreclosure of any mortgage of real property by advertisement shall be continued, or if any proceedings so to foreclose any such mortgage shall be hereafter commenced, by or on behalf of any person or persons, or for the use or benefit of any person or persons who heretofore have been, now or are hereafter may be aiding and abetting the said rebellion, the person or persons against whom such foreclosure is being made, or the owner of the mortgaged property or any part thereof, or any person having any interest in such property or any part thereof, may bring an action in the district court of the county where the mortgaged property or some part thereof is situated, to restrain by injunction such foreclosure; and upon filing with the clerk of such court a complaint alleged that the person or persons foreclosing such mortgage, or for whose use such foreclosure is being made, or some of them, naming such persons, is a resident, citizen or inhabitant of any of the States specified in section 5 of this act, naming such State, or that such person has been or is (as the case may be), aiding and abetting said rebellion, such clerk must enter an order, of course, awarding and allowing a temporary writ of injunction restraining and forbidding such foreclosure and all proceedings therefor, until the issue, if any, made upon such complaint, shall be finally disposed of, and thereupon such writ shall issue without any bond or security being required; the allegations so made in such complaint, shall

Foreclosure of
mortgage—how
restrained

be taken to be and held as *prima facie* true, notwithstanding a denial thereof in the answer; and if an answer in accordance with the provisions of this act, is not served and filed within the time prescribed in this act, or if an issue of fact is made upon such allegations in the complaint, and upon trial thereof, such issue is found against the person so charged, an order must be entered enjoining and forbidding the foreclosure of such mortgage, and any and all proceedings therefor during the continuance of said rebellion; and thereupon a permanent writ of injunction shall issue to carry such order into effect.

Judgments for
disbursements—
how recovered

SEC. 9. In all cases arising under the provisions of this act, the prevailing party shall recover judgment for his disbursements and twenty dollars costs.

What to be con-
stituted a con-
tempt of court

SEC. 10. Any person who under the provisions of this act, shall knowingly, falsely charge any other person with being a resident, citizen or inhabitant of any of the States specified in section five of this act, or with aiding and abetting said rebellion, shall be punished as for a wilful contempt of the court, and shall be liable to the person so charged, for all the damage he may sustain by reason of such charge having been made.

SEC. 11. This act shall take effect and be in force from and after its passage.

Approved February 14th, 1862.