

Punishment for an assault with intent to do bodily harm

gerous weapon, shall assault another, with intent to do great bodily harm, he shall be punished by fine not less than one hundred dollars, nor more than five hundred dollars, or by imprisonment in the state prison not more than five years, in the discretion of the court.

SEC. 2. This act shall take effect and be in force from and after its passage.

Approved February 24, 1864.

CHAPTER XLII.

An Act to amend Sections fifty-four, fifty-five and fifty-six, of Chapter sixty, of the Compiled Statutes, to provide for the publication of summons in certain cases.

SECTION 1. Publication of summons—in what cases.

2. Publication where to be made—number of weeks to be published.
3. In what cases defendant allowed to defend within one year.
4. Repeal of said original sections.
5. When act to take effect.

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

SECTION 1. That section fifty-four of chapter sixty of the compiled statutes of Minnesota, be amended so as to read as follows:

When the plaintiff, his agent or attorney shall file an affidavit or affidavits, stating that the defendant is not a resident of this State, that the affiant has made diligent inquiry for him, and has reason to believe, and does believe that such defendant is not therein, and that a cause of action exists against such defendant, or that he is a proper party to the action relating to real property in this State, the service may be made by

Publication of summons—in what cases

the publication of a summons in either of the following cases :

1st. When the defendant is a foreign corporation.

2d. When the defendant, being a resident of this State, has departed therefrom, with intent to defraud his creditors, or to avoid the service of a summons, or shall keep himself concealed therein with like intent.

3d. When the defendant is not a resident of the State, but has property therein, and the action arises on obligation, and the court has jurisdiction of the subject of the action.

4th. Where the action is for divorce in the cases prescribed by law.

5th. Where the subject of the action is real or personal property in this State, and the defendant has, or claims a lien, actual or contingent therein or the relief demanded consists wholly or partly in excluding the defendant from any interest or lien therein.

SEC. 2. That section fifty-five of said chapter be, and is hereby amended, so as to read as follows :

Section 55. The publication shall be made in a newspaper published in the county where the action is brought, and if there be no newspaper published in the county, then in a newspaper published at the seat of government of the State, once in each week for six consecutive weeks, and the service of the summons shall be deemed complete at the expiration of the time prescribed for publication as aforesaid.

Publication where to be made—number of weeks to be published

SEC. 3. That section fifty-six of said chapter be and is hereby amended, so as to read as follows :

Section 56. In cases provided for in the last two sections, except in an action for divorce, the defendant, or his representative, on application, and sufficient cause shown, may be allowed to defend, within one year after judgment, on such terms as may be just ; and if the defendant be successful, and the judgment, or any part thereof, has been collected or otherwise enforced, such restitution therefor shall be made as the court may direct.

In what cases defendant allowed to defend within one year

SEC. 4. That said original sections fifty-four, fifty-five and fifty-six of said chapter sixty, of the compiled statutes, and all acts or parts of acts inconsistent with this act, be, and the same are hereby repealed. *Pro-*

Repeal of original sections

vided, however, That all proceedings, commenced under said original sections, may be continued and completed in accordance therewith.

SEC. 5. This act shall take effect and be in force from and after its passage.

Approved March 3, 1864.

CHAPTER XLIII.

An Act for the relief of occupying claimants of land.

SECTION 1. Buildings, fences, etc., erected upon lands without legal title, may be removed—liability—when building may be removed.

2. When act to take effect.

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

SECTION 1. Any person who has or shall erect any building, tenement or fences upon land, in good faith, and having color of title, and good reason to believe that the legal title to such lands is or was vested in him, when, in fact, such title was or shall not be in him, and he shall have no legal or equitable rights whereby he could or can enforce a conveyance to him of such title, such person or persons shall be entitled to, and may remove such buildings, tenements or fences from said land, doing no unnecessary damage to the land, and in so doing shall only be liable for the actual damage done the land. *Provided*, That no person shall be entitled to remove a building or fence under the provisions of this act, unless he shall remove the same within sixty days after the determination of the suit or proceeding, respecting the title to the premises on which such building or fence shall have been erected, as contemplated by this act, or within sixty days

Buildings, fences, etc., erected upon lands without legal title, may be removed—liability—when building may be removed