

the provisions of this act, shall not be computed as any part of the time limited by law for the commencement of an action against such person.

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

Approved March 2, 1865.

CHAPTER XXII.

An Act to amend chapter fifty-nine of the Public Statutes, relating to proceedings in Justices Courts.

March 2, 1865.

- SECTION 1. All questions raised and exceptions taken to be entered upon the docket—fee.
2. Party making an appeal to serve notice upon the opposite party—what to contain—how served.
 3. When actions may be tried in the District Court.
 4. Appeals—when to be determined.
 5. No appeal shall be allowed until costs are paid.
 6. Repeal of inconsistent acts.
 7. When act to take effect.

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

SECTION 1. Sub-division eleven of section seven of said chapter is hereby amended so as to read as follows :

XI. All questions of law raised by either of the parties to any action or proceeding and the order made by the court thereon, and any exception taken to such order by any party, and all other matters that may be material, and the justice shall be allowed ten cents each for the entry of every such order.

Questions raised and exceptions taken to be entered upon the docket—fee.

SEC. 2. Section one hundred and thirty-six of said chapter is hereby amended by adding thereto the following :

3. The party appealing shall within ten days after

the entry of the judgment or order appealed from, serve a notice upon the opposite party or his agent or attorney, who appeared for him on the trial, specifying the ground of the appeal, viz :

That the appeal is taken upon questions of law, alone, or

That it is taken upon questions of fact alone, or

That it is taken upon questions of both law and fact.

An appeal being taken notice to be served on opposite party—what to contain—how served.

Said notice shall be served by delivering a copy thereof to the person upon whom service is made, or by leaving a copy at the residence of such person, and the original notice with proof of service thereof, shall be filed with the justice who rendered the judgment appealed from, within ten days after such service is made.

SEC. 3. Section one hundred and forty of said chapter is hereby amended so as to read as follows :

Upon an appeal taken from a judgment rendered by a justice of the peace, where the appeal as stated in the notice, is upon questions of law alone, the action shall be tried in the district court, upon the return made by the justice of the peace.

When actions may be tried in the District Court.

Upon an appeal taken upon questions of fact alone, the action shall be tried in the same manner as actions originally commenced in the district court.

Upon an appeal taken upon questions of both law and fact, the action shall be tried in the same manner as if originally commenced in the district court: *Provided*, That no question of law shall be tried or raised in the district court, except those tried or raised in the court below, and to which an exception was taken to the order made thereon, by the justice of the peace, except questions to the jurisdiction of the court, and that the complaint or answer does not state facts sufficient to constitute a cause of action or defense if taken as true.

The appeal upon questions of law as herein provided, may be taken in any action without reference to the amount in controversy, or the amount of the judgment, and may be taken in all actions, process or proceedings, civil or criminal: *Provided*, That no appeal shall be taken by the State in a criminal action or proceeding.

SEC. 4. Section one hundred and forty-six of said chapter is hereby amended so as to read as follows :

All appeals allowed thirty days before the first day of the term of the district court next following such allowance, shall be determined at such term unless continued for cause. Appeals—when to be determined.

SEC. 5. Section one hundred and fifty of said chapter is hereby amended so as to read as follows :

No appeal shall be allowed by any justice of the peace until the appellant shall pay all costs that have accrued in the justice's court and two dollars for the justice's return to the district court. No appeals shall be allowed until costs are paid.

SEC. 6. Sections one hundred and twenty-four, one hundred and twenty-five, one hundred and twenty-six, one hundred and twenty-seven, one hundred and twenty-eight, one hundred and twenty-nine, one hundred and thirty, one hundred and thirty-one, one hundred and thirty-two and one hundred and thirty-five, and all acts and parts of acts inconsistent with this act are hereby repealed. Repeal of inconsistent acts.

SEC. 7. This act shall take effect and be in force on and after the first day of July, A. D. eighteen hundred and sixty-five.

Approved, March 2, 1865.

CHAPTER XXIII.

An Act to amend section eighty-seven of chapter fifty-nine of the Compiled Statutes relating to filing transcripts from justice's dockets. February 28, 1865.

SECTION 1. When transcript of judgment to be filed with Clerk of District Court.
2. When act to take effect.

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

SECTION 1. That section eighty-seven of chapter