

CHAPTER LXVI.

An Act to amend Title ten, of Chapter sixty-six, of the March 6, 1871.
General Statutes, relating to Garnishment.

SECTION 1. Amendment to Section one hundred and forty-nine (149), Title ten (10), Chapter sixty-six (66), General Statutes. Proceedings in District Court. Summons, service and return—notice to defendant.

Amendment to Section one hundred and fifty-six (156), Title ten (10), Chapter sixty-six (66), General Statutes. Examination of garnishee—defendant to be notified, when.

Amendment to Section one hundred and sixty-two (162), Title ten (10), Chapter sixty-six (66), General Statutes. Who shall take disclosure of garnishee.

Amendment to Section one hundred and sixty-three (163), Title ten (10), Chapter sixty-six (66), General Statutes. Fees of officer taking disclosure.

2. When act to take effect.

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

SECTION 1. That sections one hundred and forty-nine, one hundred and fifty-six, one hundred and sixty two, and one hundred and sixty-three, title ten, of chapter sixty-six, of the general statutes, be so amended as to read as follows :

Sec. 149. In actions in a district court, such summons may be issued by the plaintiff, or his attorney, in the action, and shall be served and returned in the same manner as a summons issued against a defendant in other cases in said court, except that the service shall in all cases be personal. It shall require the garnishee to appear before the court in which the action is pending, or the judge or the clerk thereof, or the court commissioner in the county in which the action is pending, at a time and place mentioned therein, not less than twenty days from the service thereof, an answer touching his indebtedness to the defendant, and any property, money or effects of the defendant in his possession or under his control. A copy of the summons together with a notice to the defendant stating the time, place and manner of ser-

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and return—no-
tice to defendant.

vice thereof upon the garnishee, and signed by the plaintiff or his attorney, or the person or officer who served the summons upon the garnishee, and requiring such defendant to appear and take part in such examination, shall be served upon the defendant at least ten days before the time specified in the same for the appearance of the garnishee. Such notice and copy of the summons may be served in the manner provided by law for the service of a summons in ordinary cases. The garnishee shall be entitled in all cases, whether the action is in a district court or before a justice of the peace, to the same fees as if he were subpoenaed as a witness in such action, and may be compelled to testify and disclose respecting any matters contained in the affidavit in the same manner as if he were a witness duly subpoenaed for that purpose. But no person shall be obliged to appear as garnishee unless his fees for one day's attendance, and mileage according to law is paid or tendered in advance.

Sec. 156. After the appearance of the garnishee before the court or officer named in the summons, on the day specified therein, or on the day to which an adjournment may be had, the said garnishee shall be examined on oath touching the matters alleged in the affidavit, and the examining officer shall take full minutes of such examination, and file the same with the other papers in the cause; *Provided*, That, unless the defendant in the action appears at the time and place specified in the summons for the appearance of the garnishee, such officer or court shall not proceed to the examination of such garnishee, or to the taking of any evidence whatever therein until the plaintiff produces and files an affidavit or return of an officer showing the service of the summons and notice upon the defendant as prescribed in sections one hundred and forty-eight and one hundred and forty-nine aforesaid, but in case the plaintiff is unable so to notify such defendant, the said court or officer may postpone the examination for such reasonable time as may be necessary to enable the plaintiff to notify such defendant, and he may then be notified of the day to which such postponement is had in the manner provided by law for the service of a summons in ordinary cases, except that it shall be a notice of ten days in a district court, and of four days in a justice court. *Provided*, That when the defendant does not appear at the time and place specified in the summons for the appearance of the garnishee, and the

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plaintiff or his agent or attorney files an affidavit stating that the defendant is not a resident of this state, and is not within the same, as the affiant verily believes, it shall not be necessary to serve upon the defendant a copy of such garnishee summons, or any notice to the defendant in such action in any court, and the examination shall proceed in the same manner as if the defendant had been duly served with such copy and notice, or had appeared at the time and place specified in the summons for the appearance of the garnishee.

Sec. 162. Court commissioners, clerks of the district court, or any referee appointed by the court for that purpose, are hereby authorized and required to take the disclosure of any garnishee in writing, together with any other testimony offered by the parties to the action, and report the same to the court; all testimony offered by the parties to be taken subject to any objection reasonably interposed thereto.

Who shall take disclosure of garnishee.

Sec. 163. Any court commissioner, clerk or referee shall receive from the plaintiff ten cents per folio for all evidence taken and reduced to writing, and the fees so paid by the plaintiff may be taxed in the judgment against the garnishee.

Fees of officer taking disclosure.

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

When act to take effect.

Approved March 6, 1871.