

## CHAPTER XCVIII.

AN ACT TO AUTHORIZE PERSONS OVER WHOSE LANDS RAILROADS HAVE BEEN CONSTRUCTED TO BRING ACTIONS TO RECOVER THE LAND TAKEN FOR RAILROAD PURPOSES, OR COMPENSATION FOR SUCH TAKING.

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

SECTION 1. One year after any railroad has been constructed across the land of any person in this state, if such person has not already obtained compensation for the taking of his land for railroad purposes, and in all cases where any person is entitled to such compensation for such land, whether the same was taken with the acquiescence of the owner thereof or not, and no proceedings under the law have been instituted or are pending, to ascertain and assess such compensation then, and in that case he may have and maintain an action to recover the land so taken for railroad purposes, with or without damages for withholding thereof, and the rents and profits of the same, against the corporation or person constructing or operating such railroad.

Action may be brought to recover damages.

SEC. 2. In such action the defendant may, by answer, admit and allege the taking of the plaintiff's land for railroad purposes, that no compensation has been made for such taking, and that the defendant is ready and willing to pay such compensation on having the same assessed and ascertained by the jury trying the action; *Provided*, The plaintiff on the trial shall establish his right to recover the land in question.

Defendant's pleadings.

SEC. 3. In such action, when the defendant by answer admits and pleads as in the last section specified, the jury shall try, and by their verdict find whether the plaintiff is entitled to recover the land in controversy, and if so entitled, then the amount of compensation to which the plaintiff is entitled for the taking and perpetual use of this land for railroad purposes; *Provided*, that when it appears that the land was so taken or appropriated by and with the consent and acquiescence of the owner, such owner shall not be entitled to recover any rents or profits which accrued prior to demand for compensation for such land, and he shall be limited to a recovery in such case to compensation for the land taken, and damages.

Amount of compensation, how ascertained.

SEC. 4. Upon a verdict finding that the plaintiff is entitled to recover the land in suit, and the compensation due him for the taking and perpetual use of such land for railroad purposes, judgment shall be entered in substance, as follows:

If verdict for plaintiff, form of judgment—when writ of execution may issue.

That the plaintiff have and recover from the defendant the land in suit, or in lieu thereof, the compensation fixed by the jury, with costs and disbursement, and reasonable attorney's fee, to be fixed by the court. On the expiration of thirty days after the entry of the judgment aforesaid, if the compensation, costs, disbursements and attorney's fee specified in the judgment are not paid, then a writ of execution shall issue for the delivery of the possession of the land described in the judgment to the plaintiff, and to satisfy the judgment as to costs, disbursements and attorneys' fee out of any property of the defendant.

How to proceed in case no pleading on part of defense.

SEC. 5. In case the defendant does not plead as in the second section specified, then, if there is no answer, or if the plaintiff, upon the trial, establishes his title to the land sued for, he, the plaintiff, shall have judgment for the immediate possession of the land, and for such damages, rents and profits as may be alleged and found, with costs, disbursements and reasonable attorney's fee, to be fixed by the court; and, upon such judgment, execution shall issue in the like manner and for, and with the like effect, as is provided in sub-division four of section two hundred and sixty-four of chapter thirty [sixty]-six of the general statutes.

Rules governing said action.

SEC. 6. The action given by this act shall in all other respects, except as herein provided, be governed by the same rules of practice and procedure, as to new trials and appeals, or otherwise, as other actions brought for the recovery of real estate under the laws of this state.

When act to take effect.

SEC. 7. This act shall take effect and be in force from and after sixty days after its passage.

Approved March 6, 1875.

## CHAPTER XCIX.

### AN ACT TO ESTABLISH A STATE INEBRIATE ASYLUM.

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

Establishment of asylum.

SECTION 1. There is established in the city of Rochester, in the county of Olmsted, an institution for the care of inebriates, styled "The Minnesota Inebriate Asylum."

SEC. 2. Said asylum shall be controlled by a board of seven directors. The governor and secretary of state shall be two of the members of said board *ex-officio*, and the remaining five shall be appointed by [the governor by] and with the advice and consent of the senate, one for a term of one year, one for