

will be restored to and have full jurisdiction over the action in which such appeal was taken, in the same manner, and to all intents and purposes, and shall proceed thereon as if no appeal had been taken.

SEC. 2. In all cases where an appeal has been taken to the supreme court, and after the case [has] been submitted to the supreme court, but before the entry of judgment thereon in such court, either party to such appeal dies, and the surviving parties to such action, or the legal representative or successor in interest of said deceased party or either of them, shows by affidavit filed therein that such death has occurred, it shall be the duty of the clerk of the supreme court to substitute the name of the person so shown to be the legal representative or successor in interest of such deceased party; and the action shall thereupon proceed, and all subsequent proceedings had and judgment be entered therein for or against such legal representative or successor in interest, or such jointly or alone, as the case may be.

Clerk of supreme court to substitute name.

SEC. 3. This act shall take effect and be in force from and after its passage.

When act to take effect.

Approved February 25, 1876.

CHAPTER XLVIII.

AN ACT TO AMEND SECTION 40, OF CHAPTER 66, OF THE GENERAL STATUTES, (BEING SECTION 44, OF CHAPTER 32, OF STATUTES AT LARGE,) RELATING TO CIVIL ACTIONS.

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

SECTION 1. That section 40, of chapter 66, of the general statutes, (being section 44, of chapter 32, of the statutes at large,) be and the same is hereby amended so as to read as follows:

Sec. 40. In all other cases the action shall be tried in the county in which the defendants, or any of them shall reside at the commencement of the action; or if none of the parties shall reside, or be found in the state, or the defendant be a foreign corporation, the same may be tried in any country which the plaintiff shall designate in his complaint, subject, however, to the power of the court to change the place of trial, in the cases provided by law. If the county designated for that purpose in the complaint be not the proper county, the action may, notwithstanding, be tried therein, unless the defendant, before the time for answering expires, demand in writing that the trial be

Place of trial—
change of.

had in the proper county, and the place of trial shall be thereupon changed to the proper county, by order of the court, unless the parties consent thereto.

When act to take effect—application.

SEC. 2. This act shall take effect, and be in force from and after its passage, and apply to cases now pending where such demand in writing has heretofore been made.

Approved March 1, 1876.

CHAPTER XLIX.

AN ACT TO AMEND SECTION 105, OF CHAPTER 66, OF THE GENERAL STATUTES, RELATING TO CIVIL ACTIONS.

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

SECTION 1. That section 105, of chapter 66, of the general statutes, be and the same is hereby amended so that the same shall read as follows :

Judicial powers.

Sec. 105. The court may likewise, in its discretion, allow an answer or reply to be made or other act to be done after the time limited by this chapter, or by an order enlarge such time ; and may also, in its discretion, at any time within one year after notice thereof, relieve a party from a judgment, order, or other proceeding taken against him through his mistake, inadvertence, suspense or excusable neglect, and the court may as well in vacation and out of term as in term, and without regard to whether such judgment or order was made and entered, or proceedings had in or out of term, upon good cause shown, set aside or modify its judgments, orders or proceedings, although the same were made or entered by the court, or under or by virtue of its authority, order or direction, and may supply any omission in any proceeding. And whenever any proceeding taken by a party fails to conform to the statute, the court may permit an amendment to such proceeding so as to make it conformable thereto ; but this section does not apply to a final judgment in an action for divorce.

Does not apply to divorce.

When act to take effect—application.

SEC. 2. This act shall take effect and be in force from and after its passage, and apply to suits and proceedings now pending or hereafter commenced.

Approved March 6, 1876.

will be restored to and have full jurisdiction over the action in which such appeal was taken, in the same manner, and to all intents and purposes, and shall proceed thereon as if no appeal had been taken.

SEC. 2. In all cases where an appeal has been taken to the supreme court, and after the case [has] been submitted to the supreme court, but before the entry of judgment thereon in such court, either party to such appeal dies, and the surviving parties to such action, or the legal representative or successor in interest of said deceased party or either of them, shows by affidavit filed therein that such death has occurred, it shall be the duty of the clerk of the supreme court to substitute the name of the person so shown to be the legal representative or successor in interest of such deceased party; and the action shall thereupon proceed, and all subsequent proceedings had and judgment be entered therein for or against such legal representative or successor in interest, or such jointly or alone, as the case may be.

Clerk of supreme court to substitute name.

SEC. 3. This act shall take effect and be in force from and after its passage.

When act to take effect.

Approved February 25, 1876.

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Place of trial—
change of.

had in the proper county, and the place of trial shall be thereupon changed to the proper county, by order of the court, unless the parties consent thereto.

When act to take effect—application.

SEC. 2. This act shall take effect, and be in force from and after its passage, and apply to cases now pending where such demand in writing has heretofore been made.

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Does not apply to divorce.

When act to take effect—application.

SEC. 2. This act shall take effect and be in force from and after its passage, and apply to suits and proceedings now pending or hereafter commenced.

Approved March 6, 1876.