

the action is pending or in an adjoining district; *Provided*, That no motion shall be made in an adjoining district which will require the hearing of such motion at a greater distance from the county seat where the action is pending in which such motion is made than the residence of the judge of the district wherein such action is pending is from such county seat. Orders made out of court and without notice may be made by any Judge of a District Court at any place in the State; but no order to stay proceedings for a longer time than twenty (20) days shall be made except upon notice to the adverse party. Motions for judgment upon demurrer or upon the pleadings may be made and determined in vacation in the manner prescribed in this Chapter; and when any motion is made in a District Court other than that in which the action is pending, the order, determination or judgment thereon, is to be entered in the same manner and have the same force and effect as when made in and by the Judge of the District, and in the county in which the action is pending.

Sec. 2. This Act shall take effect from and after its passage.

AMOS COGGSWELL,  
Speaker of the House of Representatives.  
IGNATIUS DONNELLY,  
President of the Senate.

Approved March third, one thousand eight hundred and sixty.

SECRETARY'S OFFICE, MINNESOTA, }  
March 3rd, 1860. }

ALEX. RAMSEY.

I hereby certify the foregoing to be a true copy of the original on file in this office.

J. H. BAKER, Secretary of State.

## CHAPTER XXXVIII.

### *An Act to provide for the service of Summons by Publication in certain cases in Justices' Court.*

- SECTION 1. Circumstances under which Justices may cause summons to be published.
2. Where published and how long.
  3. Defendant not appearing plaintiff may proceed to judgment.

- SECTION 4. Justice to give transcript of such judgment.  
 5. Judgment to have same lien as judgments in District Court.  
 6. Defendant may appear and defend judgment.  
 7. Act to take effect within thirty days after passage.

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

SECTION 1. That when it shall be made to appear by affidavit to the satisfaction of any Justice of the Peace of any county in this State that a plaintiff has a just cause of action against a defendant founded upon contract expressed or implied and that the defendant cannot be found in the State, the said Justice of the Peace may order that the service be made on the defendant by the publication of the summons in either of the following cases:

When summons  
to be published

*First*—When the defendant is a foreign corporation.

*Second*—When the defendant being a resident of the State has departed therefrom with intent to defraud his creditors or to evade the service of a summons or shall keep himself concealed therein with like intent.

*Third*—When the defendant is not a resident of the State but has property, real or personal, therein and that the Justice has jurisdiction of the action.

SEC. 2. The order must direct the publication to 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 the nearest newspaper published in any other county of the State and for such length of time as may be deemed reasonable not less than once a week for three weeks.

Where publica-  
tion to be made

In case of publication the Justice of the Peace must also direct a copy of the summons and complaint to be forthwith deposited in the post-office directed to the defendant at his place of residence unless it shall appear that such residence is not known to the party making the application, the service of the summons is to be deemed complete at the expiration of the time prescribed in the order for publication.

Copy to be direc-  
ted to defendant

SEC. 3. When the defendant shall be summoned as aforesaid and shall not appear and answer to the action, his default shall be entered by the Justice in his docket and the plaintiff may proceed thereon to final judgment as in other actions.

Non-appearance  
of defendant

SEC. 4. Every Justice, on demand of any person in whose favor a judgment has been rendered as hereinbefore provided, shall give a certified transcript of such judgment together with a copy of the complaint, the summons and affidavit of its publication, and the Clerk of the District Court in the county in which the judgment was rendered, shall upon the production of any such transcript and complaint and summons, file the same in his office and forthwith enter judgment in his docket of the District Court, and shall note the time of filing such transcript.

Justice to give  
certified tran-  
script

SEC. 5. Every such judgment from the time of filing the transcript thereof shall have the same lien on the real estate of the defendant or defendants in the county, as a judgment of the District Court of the same county and shall be equally under the control of the District Court, and executions shall issue in the same manner and with like effect as judgment of such District Court; but no execution shall issue thereon until the plaintiff or some person in his behalf shall execute a bond in double the amount of such judgment to the defendant with security to be approved by the clerk of said court conditioned that if the defendant shall within one year from the rendition of such judgment, appear and disprove the debt or damages against him, or any part thereof, the plaintiff will refund the whole or such part thereof as may be found not justly due him in a review of the case.

Judgment to have same lien as in District Court

SEC. 6. The defendant or his representative may be allowed to appear and defend any judgment obtained as hereinbefore provided and within one year after the rendition of such judgment or such time as may be just, in like manner as judgments are re-opened and defended in actions originally commenced in the District Court.

Defendant may appear and defend judgment

SEC. 7. This Act shall take effect within thirty days from its passage and approval.

AMOS COGGSWELL,  
Speaker of the House of Representatives.  
IGNATIUS DONNELLY,  
President of the Senate.

Approved March tenth, one thousand eight hundred and sixty.

SECRETARY'S OFFICE, MINNESOTA, }  
March 10th, 1860. }

ALEX. RAMSEY.

I hereby certify the foregoing to be a true copy of the original on file in this office.

J. H. BAKER, Secretary of State.

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CHAPTER XXXIX.

*An Act to amend the Statutes relative to service of Warrants of Attachment.*