

When Judge of
adjoining county
may act

ney of the county in which the Judge of Probate is so incapacitated, shall be vested with all the powers and authority given by statute to the Judge of Probate, when not incapacitated as above, and shall act in the place and stead, and perform the duties of such Judge of Probate in relation to such estate; and in case the County Attorney should be incapacitated as above, or in any other manner unable to act, then the Judge of Probate of an adjoining county, to be designated by the next of kin, the largest legatee or creditor, shall be vested with all the powers given by statute to the Judge of Probate or County Attorney of the proper county, when not incapacitated as aforesaid.

Penalty for vio-
lation of provi-
sions of this act

SEC. 2. Any Judge of Probate or County Attorney, incapacitated to act under the provisions of this act, who shall violate any of the provisions of this act, shall be deemed guilty of a misdemeanor, and for every such offence shall be punished by a fine of not less than one hundred dollars, nor more than five hundred dollars, to be recovered by indictment and prosecution, which said fine shall be paid into the county treasury, for the benefit of the common school fund of the county, where such offence shall be committed.

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

Approved, March 3, 1863.

CHAPTER XXVII.

An Act to amend Section Seventy, Page 566, of the Compiled Statutes, relating to Actions of Replevin.

SECTION 1. Judgment may be rendered for either party for immediate return of property or value thereof.
2. When act to take effect.

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

SECTION 1. That Section 70, Page 566, of the Com-

piled Statutes, is hereby amended so as to read as follows:

Sec. 70. In any action in a District Court or a Justice's Court, to recover the possession of personal property, judgment may be rendered for the plaintiff and for the defendant in the same action, or for either of them; judgment for either party shall be for the immediate return and possession of the property, to which he shall be found entitled, or the value thereof, in case a delivery cannot be had, and damages for the detention thereof, with costs. If the property has been delivered to the plaintiff, and the action be dismissed for any cause, the defendant shall have judgment for the immediate return and possession of the property so delivered, or the value thereof, as admitted by the parties, or if no value be admitted, then the value as stated in the verified answer of the defendant therein, or if no value be stated in such answer, then for the value thereof, as stated in the affidavit on behalf of the plaintiff by law required in such action, in case a return cannot be had, and damages for taking and detaining the same, if any; but such judgment upon the dismissal of the action shall not be a bar to another action.

Judgment may be rendered for either party for immediate return of property or value thereof

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

Approved, March 5, 1863.

CHAPTER XXVIII.

An Act to Punish Injuries to Real Estate.

- SECTION 1. Penalty for destroying any house or other building, or removing any fence.
 2. When cases may come within the jurisdiction of Justices of the Peace.
 3. When act to take effect.

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

SECTION 1. That if any person shall pull down, de-