

CHAPTER LXII.

An Act to amend chapter sixty-six of the General Statutes, relating to civil actions.

March 9, 1867

SECTION 1.—Amends chapter 66 of general statutes by prescribing mode of serving summonses.

- 2.—Prescribes how complaint shall be served.
- 3.—Pleadings to be filed.
- 4.—Repeals certain sections.
- 5.—Defendant may demur to complaint.
- 6.—Further amendment.
- 7.—When act to take effect.

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

SECTION 1. That section forty-four of the said chapter be amended so as to read as follows :

Amendment

Section 44. The summons must be subscribed by the plaintiff or his attorney, and directed to the defendant, requiring him to answer the complaint, and serve a copy of his answer on the person whose name is subscribed to the summons, at a place within the state therein specified in which there is a post office, within twenty days after the service of the summons, exclusive of the day of service.

SEC. 2. Section forty six of said chapter is amended so as to read as follows :

Section 46. A copy of the complaint must be served upon the defendant with the summons, unless the complaint itself be filed in the office of the clerk of the district court of the county in which the action is commenced, in which case the service of the copy may be omitted, but the summons in such case must notify the defendant that the complaint has been filed with the clerk of said court; and if the defendant appear within ten days after the service of the summons the plaintiff must serve a copy of the complaint on the defendant or his attorney, within five days after the notice of such appearance, and the defendant shall

Copy of complaint to be served

have at least ten days thereafter to answer the same; and no judgment shall be entered against him for want of an answer in such case till the expiration of the time.

Further amended SEC. 3. Section sixty-five of said chapter is amended by adding thereto the following: "Each party shall, on or before the second day of the term for which any cause is noticed, file his pleadings in the office of the clerk of the court."

Repealed SEC. 4. Sections sixty-six and seventy-six of said chapter are hereby repealed.

Amendment SEC. 5. Section seventy-four of said chapter is hereby amended so that the first three lines thereof shall read as follows: "Section 74. The defendant may demur to the complaint within twenty days after the service thereof, when it appears upon the face thereof, either."

Pleadings may be amended SEC. 6. Section one hundred and three of said chapter is hereby amended so as to read as follows:

Section 103. Any pleading may be once amended by the party, of course without costs, and without prejudice to the proceedings already had, at any time before the period for answering it expires; or if it does not delay the trial, it may be so amended at any time within twenty days after service of the answer, demurrer or reply to such pleading; in such case the amended pleading shall be served on the adverse party, who shall have twenty days to answer the same. After the decision of the demurrer the court may, in its discretion, if it appears that the demurrer was interposed in good faith, allow the party demurring to withdraw the same and plead over, or, if the demurrer is sustained, may allow the pleading demurred to be amended on such terms as may be just.

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

Approved March 9, 1867.