

CHAPTER LXXXIV.

An Act to amend section one hundred and ninety two (192), of chapter sixty six (66), of the General Statutes, entitled Judgment upon Failure to Answer.

March 3, 1868.

SECTION 1. Amendment to Section 192, Chapter 66, General Statutes. Judgment upon failure to answer, when and what cause made—plaintiff may file proof of service of summons—Clerk to enter judgment. When plaintiffs are entitled to judgment.

2. When act to take effect.

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

SECTION 1. That section one hundred and ninety-two, of chapter sixty-six, of the general statutes, be amended so as to read as follows :

Sec. 192. Judgment may be had if the defendant fails to answer the complaint as follows :

First—When in action arising on contract for the payment of money only, the summons has been personally served and the plaintiff shall file with the clerk, proof of the personal service of the summons, and that no answer has been received within the time allowed by law, the clerk shall thereupon enter judgment for the amount mentioned in the summons against the defendant, or against one or more of several defendants in the cases provided for in this chapter. In other actions for the recovery of money only, on filing the like proof the plaintiff may apply to the court for a reference, to have his damages assessed or the amount he is entitled to recover ascertained in any other manner, and for judgment.

Plaintiff may file proof of service of summons.

Second—In other actions the plaintiff may upon like service and proof apply to the court after the expiration of the time for answering, for the relief demanded in the complaint. If the taking of an account or the proof of any fact is necessary to enable the court to give judgment, or to carry the judgment into effect, the court may take the

account or hear the proof, or may in its discretion order a reference for that purpose.

Third—When the service of the summons was by publication, or by leaving a copy thereof at the house of the usual abode of the defendant in actions arising on contract for the payment of money only, the plaintiff upon filing with the clerk proof of such service, and that no answer has been received within the time allowed by law, together with the security hereinafter mentioned, shall be entitled to judgment in the same manner as if the summons had been served upon the defendant personally; in other actions upon filing the like proof the plaintiff may apply for judgment, and the court shall thereupon require proof to be made of the demand set forth in the complaint, and may render judgment for the plaintiff for such amount, or such relief as he is entitled to recover. In all cases where the summons has not been served personally, the plaintiff, before judgment is entered, must file, or cause to be filed, satisfactory security to abide the order of the court touching the restitution of any money or property collected or received under or by virtue of the judgment in case the defendant or his representatives shall thereafter apply and be admitted to defend the action and shall succeed in the defence. *Provided*, That when service of the summons is made by leaving a copy thereof at the house of the usual abode of the defendant and the officer or person making such service shall return that he left such copy with some person of suitable age and discretion, then resident therein, it shall be deemed personal service, and in such cases judgment may be entered without filing the security herein provided for.

When plaintiffs
entitled to judgment.

When act to take
effect.

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

Approved March 3, 1868.