

CHAPTER LXXIII.

An Act to amend Section forty-nine (49) of Chapter sixty-six (66) of the General Statutes, entitled civil actions.

Feb'y 8, 1869.

SECTION 1. Amendment to Section forty-nine (49) of Chapter sixty-six (66) of the General Statutes. What to be deemed prima facie evidence of non-residence of defendant—in what cases summons to be published.

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

SECTION 1. That section forty-nine (49) of chapter sixty-six (66) of the general statutes, be amended so as to read as follows.

Sec. 49. When the defendant cannot be found within the state of which the return of the sheriff of the county in which the action is brought, that the defendant cannot be found in the county is *prima facie* evidence, and upon the filing of an affidavit of the plaintiff, his agent or attorney, with the clerk of the court, stating that he believes that the defendant is not a resident of the state, or cannot be found therein, and that he has deposited a copy of the summons in the post office directed to the defendant at his place of residence, unless it is stated in the affidavit that such residence is not known to the affiant, and stating the existence of one of the cases hereinafter specified, the service may be made by publication of the summons by the plaintiff or his attorney in either of the following cases:

In what cases
summons to be
published.

First—When the defendant is a foreign corporation and has property within this state.

Second—When the defendant, being a resident of this state, has departed therefrom with intent to defraud his creditors, or to avoid the service of a summons, or keeps himself concealed therein with like intent.

Third—When the defendant is not a resident of the state but has property therein, and the action arises on contract, and the court has jurisdiction of the subject of the action.

Fourth—When the action is for divorce in the cases prescribed by law.

Fifth—When the subject of the action is real or personal property in this state, and the defendant has or claims a lien or interest actual or contingent therein, or the relief demanded consists wholly or partly in excluding the defendant from any interest or lien therein.

Approved February 8, 1869.

CHAPTER LXXIV.

Feb'y 24, 1869.

An Act to amend Sections sixty-eight (68) and sixty-nine (69) of Chapter sixty-five (65) of the General Statutes, providing for the opening of judgments in justices' courts in certain cases.

SECTION 1. Amendment to Sections sixty-eight (68) and sixty-nine (69) of Chapter sixty-five (65) of the General Statutes.

68. In all cases when the service of summons is made by leaving a copy at the usual place of abode of defendant, plaintiff shall file a bond—in what amount.

69. Upon complying with conditions of this Section defendant permitted to appear and defend said action—within what time.

2. When act to take effect.

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

SECTION 1. That sections sixty-eight (68) and sixty-nine (69) of chapter sixty-five (65) of general statutes, be amended to read as follows:

Sec. 68. In all cases where the service of the summons is made by leaving a copy thereof at the last usual place of abode of the defendant, and where the service of the summons is made by publication, before judgment is rendered, the plaintiff shall file or cause to be filed with the justice a bond with sufficient sureties to be approved

When plaintiff
to file bond.