

31700

THE
REVISED STATUTES,
OF THE
TERRITORY OF MINNESOTA,

PASSED AT THE SECOND SESSION OF THE
LEGISLATIVE ASSEMBLY,

COMMENCING JANUARY 1, 1851.

PRINTED AND PUBLISHED PURSUANT TO LAW, UNDER THE SUPERVISION OF M. S. WILKINSON.

SAINT PAUL:

JAMES M. GOODHUE, TERRITORIAL PRINTER.

.....
1851

may adopt other than the usual mode of swearing.

When the court may adopt other than the usual mode of swearing.

Court may examine infants, &c., to ascertain their capacity.

Oaths may be taken in any of the usual forms.

offered as a witness, shall be satisfied that such person has any peculiar mode of swearing, which is more solemn and obligatory in the opinion of such person, than the usual mode, the court may in its discretion, adopt such mode of swearing such person.

SEC. 93. Every person believing in any other than the christian religion, shall be sworn according to the peculiar ceremonies of his religion, if there be any such ceremonies.

SEC. 94. The court before whom an infant, or a person apparently of weak intellect, shall be produced as a witness, may examine such person to ascertain his capacity, and whether he understands the nature and obligations of an oath; and any court may inquire of any person, what are the peculiar ceremonies observed by him in swearing, which he deems most obligatory.

SEC. 95. In all cases in which an oath or affidavit is required or authorized by law, the same may be taken in any of the usual forms, and every person swearing, affirming, or declaring in any such form, shall be deemed to have been lawfully sworn, and to be guilty of perjury, for corruptly or falsely swearing, affirming or declaring in any such form.

CHAPTER 96.

OF ARBITRATIONS.

SECTION

1. Controversy may be submitted to arbitrators.
2. When submission not to be made.
3. Parties to make agreement of submission; form of agreement.
4. Agreement to submit, what to contain.
5. Submission not to be revoked.
6. To appoint a time and place for the hearing.
7. Arbitrators to be sworn.
8. Award made after time fixed by parties not to have effect.
9. Award to be in writing.
10. To be delivered to the clerk.
11. Court to have cognizance of award.

SECTION

12. Award may be accepted, rejected or re-committed.
13. On what grounds party may move court to set aside award.
14. In what cases court may alter award.
15. Award when to be returned to court.
16. Judgment how rendered; costs how taxed.
17. Record of judgment how made.
18. Record how filed and docketed, &c.
19. Arbitrators may make award concerning costs.
20. Court may enforce judgment.
21. Arbitrators may administer oaths.

Controversy may be submitted to arbitrators.

When submission not to be made.

Parties to make

SEC. 1. All controversies which might be the subject of a personal action at law, or of a suit in equity, may be submitted to the decision of one or more arbitrators in the manner provided in this chapter.

SEC. 2. No such submission shall be made respecting the claim of any person, to any estate in fee, or for life to real estate, but any claim to an interest for a term of years, or for one year or less, in real estate, and controversies respecting the partition of lands between joint tenants, or tenants in common, or concerning the boundaries of lands, or concerning the admeasurement of dower, may be submitted to arbitration.

SEC. 3. The parties shall appear in person, or by their lawful agents

or attorneys, before any justice of the peace, and shall there sign and acknowledge an agreement in substance as follows :

agreement of submission.

“ Know all men, that of and of have agreed to submit the demand, a statement whereof is hereto annexed, (and all other demands between them, as the case may be,) to the determination of and the award of whom or the greater part of whom, being made and reported within from this day, to the district court for the county of the judgment thereon shall be final ; and if either of the parties shall neglect to appear before the arbitrators, after due notice given them of the time and place appointed for hearing the parties, the arbitrators may proceed in his absence.

Form of agreement.

Dated this day of in the year

And the justice shall subjoin to the said agreement his certificate, in substance as follows :

Territory of Minnesota, } ss.
County of

Then the above named and personally appeared, (or the above named personally, and the said by the said his attorney, appeared, as the case may be,) and acknowledged the above instrument by them signed, to be their free act.

Before me, J. P. justice of the peace.

SEC. 4. If any specific demand is submitted to the exclusion of others, the demand submitted shall be set forth in the statement annexed to the agreement, otherwise it shall not be necessary to annex any statement of a demand, and the words in the agreement relating to such statement may be omitted, and the submission may then be of all demands between the parties, or of all demands which either of them has against the other, or the submission may be varied in this respect, in any other manner according to the agreement of the parties.

Agreement to submit, what to contain.

SEC. 5. Neither party shall have power to revoke a submission made as herein provided, without the consent of the other ; and if either of them shall neglect to appear before the arbitrators after due notice, the arbitrators may, nevertheless, proceed to hear and determine the cause upon the evidence produced by the other party, as provided in the agreement of submission.

Submission not to be revoked.

SEC. 6. The arbitrators thus selected shall appoint a time and place for the hearing, and shall adjourn the same from time to time as may be necessary ; and on the application of either party, and for good cause, they may postpone such hearing to a time not extending beyond the day fixed in such submission for rendering their award.

To appoint a time and place for the hearing.

SEC. 7. Before proceeding to hear any testimony, the arbitrators shall be sworn by any officer authorized to administer oaths, faithfully and fairly to hear and examine the matters in controversy, and to make a just award according to law and evidence, to the best of their understanding.

Arbitrators to be sworn.

SEC. 8. The time within which the award shall be made and reported, may be varied according to the agreement of the parties ; and no award made after the time so agreed upon, shall have any legal effect or operation, unless made upon a re-commitment of the award by the court to which it is reported.

Award made after time fixed by parties not to have effect.

SEC. 9. To entitle any award to be enforced, according to the provisions of this chapter, it must be in writing, subscribed by the arbitrators making the same, and attested by a subscribing witness.

Award to be in writing.

SEC. 10. The award shall be delivered by one of the arbitrators, to the clerk of the court, designated in the agreement, or shall be inclosed

To be delivered to the clerk.

and sealed by them, and transmitted to the clerk, and shall remain sealed until opened by the court.

Court to have cognizance of award.

SEC. 11. The court to which the award is returned shall have cognizance thereof in the same manner, and the same proceedings shall be had thereon, as if it had been made by referees appointed by a rule of the same court.

Award may be accepted, rejected or recommitted.

SEC. 12. The award may be accepted or rejected by the court for any legal and sufficient reason, or it may be recommitted to the same arbitrators for a rehearing by them; and when an award is accepted and confirmed by the court, judgment shall be rendered thereon in the same manner as upon a like award made by referees appointed by a rule of the court, and execution shall issue accordingly.

On what grounds party may move court to set aside award.

SEC. 13. Any party complaining of such award may move the court designated in such submission, to vacate the same upon either of the following grounds:

1. That such award was procured by corruption, fraud, or other undue means:
2. That there was evident partiality or corruption in the arbitrators, or either of them:
3. That the arbitrators were guilty of misconduct in refusing to postpone the hearing upon sufficient cause shown, or in refusing to hear evidence, pertinent and material to the controversy, or any other misbehavior by which the rights of any party shall have been prejudiced:
4. That the arbitrators exceeded their powers, or that they so imperfectly executed them, that a mutual, final and definite award on the subject matter submitted was not made:
5. That the award was contrary to law and evidence:

In what cases court may alter award.

SEC. 14. Any party to such submission may also move the court designated therein, to modify or correct such award in the following cases:

1. Where there is an evident miscalculation of figures or an evident mistake in the description of any person, thing or property referred to in such award:
2. Where the arbitrators shall have awarded upon some matter not submitted to them, nor affecting the merits of the decision upon the matters submitted:
3. Where the awards shall be imperfect in some matter of form not affecting the merits of the controversy, and where, if it had been a verdict, such defect could have been amended or disregarded by the court according to the provisions of law.

Award when to be returned to court.

SEC. 15. The award may be returned at any term or session of the court, that shall be held within the time limited in the submission; and the parties shall attend at every such term or session, without any express notice for that purpose, in like manner as if an action for the same cause were pending between them in the same court; but the court may require actual notice to be given to either party, when it shall appear to them necessary or proper, before they proceed to act upon the award.

Judgment how renewed.

SEC. 16. Upon such award being confirmed or modified, the court shall render judgment in favor of the party to whom any sum of money or damages shall have been awarded, that he recover the same, and if the award shall have ordered any act to be done by either party, judgment shall be entered that such act be done according to such order; the costs of proceedings shall be taxed as in suits, and if no provision for the fees and expenses of the arbitrators shall have been made in the award, the court shall make a suitable allowance.

Costs how taxed.

Record of judgment how made.

SEC. 17. A record of such judgment shall be made, commencing with a memorandum reciting the submission, then stating the hearing

before the arbitrators, their award, the proceedings of the court thereupon in modifying or confirming such award, and the judgment of the court for the recovery of the debt or damages awarded, and that the parties perform the acts ordered by the award, and for the recovery of the costs allowed.

SEC. 18. Such record shall be filed and docketed as records of judgments in other cases, shall have the same force and effect in all respects, be subject to all the provisions of law in relation to judgments in actions, and may in like manner be removed and reversed by writ of error, and execution shall issue thereupon.

Record how filed and docketed, &c.

SEC. 19. If there is no provision in the submission concerning the costs of the proceedings, the arbitrators may make such award respecting the costs as they shall judge reasonable, including therein a compensation for their own services; but the court may reduce the sum charged for the compensation of the arbitrators, if it shall appear to them unreasonable.

Arbitrators may make award concerning costs.

SEC. 20. Where by such judgment any party shall be required to perform any act other than the payment of money, the court rendering such judgment shall enforce the same by rule; and the party refusing or neglecting to perform and execute such act, or any part thereof, shall be subject to all the penalties of contemning an order of such court.

Court may enforce judgment.

SEC. 21. The arbitrators shall hear and receive the testimony of either party under oath, and shall have power to administer all necessary oaths to parties or witnesses appearing before them.

Arbitrators may administer oaths.

CHAPTER 97.

OF LABORERS' AND OTHERS' LIENS.

SECTION

1. Complaint what to allege where party claims a lien.
2. Complaint what to allege where work was done for contractor; such complaint shall be a lien; proviso.
3. Summons and notice to be served.
4. Lien hereby created how far effectual.

SECTION

5. District court to have jurisdiction in all cases.
6. Satisfaction when entered.
7. Penalty for refusal to enter satisfaction.
8. Judgment to be for damage, interest, &c.
9. Lien upon personal property how created; person having lien may sell property, &c.
10. Common carrier, &c., to have lien.

SEC. 1. Any person who has a subsisting cause of action to the amount of ten dollars, for any labor performed upon any lands, tenements, or hereditaments, or for any materials furnished for any improvements upon any lands, tenements, or hereditaments, may at any time within one year next after such cause of action shall have accrued, file his complaint as in other cases, but without serving a summons upon the defendant; and such complaint shall, in addition to the facts necessary to constitute a cause of action, contain an accurate description and statement of the location of the lands, tenements, or hereditaments upon which the labor was performed, or for the improvement of which the materials were furnished, and shall also allege that the defendant therein named, is the owner of, or has some interest in such lands, tenements,

Complaint what to allege where party claims a lien.