

James C. Child
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THE

PUBLIC STATUTES

OF THE

STATE OF MINNESOTA.

(1849—1858.)

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therein, as shall be necessary to satisfy the amount of judgment rendered in favor of the plaintiff, and all the costs that may have accrued.

(17.) SEC. XVII. Upon good and sufficient cause shown by the master, owner, agent, or consignee of any boat or vessel, sold under this chapter, the court or justice of the peace may grant a continuance of the cause; but no such continuance shall operate as a discharge of such boat or vessel from the custody of the sheriff or constable. Continuance how granted.

(18.) SEC. XVIII. No continuance of a cause, under this chapter, shall be granted to the plaintiff. Continuance when refused.

(19.) SEC. XIX. Sheriffs, constables, and other officers, shall receive the same fees and compensation for their services under this chapter, as are allowed them in cases of suits of attachment. Fees of officers.

(20.) SEC. XX. In all cases arising under this chapter, if judgment shall have been rendered in favor of the plaintiff, the master, owner, agent, or consignee of the boat or vessel, or other person interested, may appear from the judgment, as if they, or either of them, had been sued. Appeal allowed.

(21.) SEC. XXI. All actions against a boat or vessel, under the provisions of this chapter, shall be commenced and sued within one year after the cause of such action shall have accrued. Limitation of action.

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CHAPTER 77.

FORCIBLE ENTRIES AND UNLAWFUL DETAINERS.

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| <p>SECTION</p> <ol style="list-style-type: none"> 1. No person to make forcible entry into lands, &c. 2. Justice to try such entries and detainers. 3. Upon complaint being filed, justice to issue summons. 4. Summons how served. 5. Trial by jury may be demanded by either party 6. Summons may be served by copy in certain cases. 7. Continuance when granted. 8. Depositions may be used in certain cases. 9. Judgment how entered where defendant is found guilty. 10. Proceedings when jury cannot agree. 11. Treble damages allowed. | <p>SECTION</p> <ol style="list-style-type: none"> 12. Action lies to recover possession of leased premises. 13. Limitation to preceding section. 14. Complainant may bring civil action against defendant. 15. Penalty for neglect to serve as juror. 16. Fines to be for the use of common schools 17. Appeal when and how taken. 18. Stay of proceedings upon appeal. 19. If restitution allowed before appeal, justice to give certificate. 20. Proceeding in appellate court. 21. Amendments allowed. 22. What matters to be set up in answer. 23. Appellate court may compel amended return. 24. Forms adopted. |
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✓ [Chapter 87, Revised Statutes.]

(1.) SEC. I. No person or persons shall hereafter make an entry into lands, tenements, or other possessions, but in cases where entry is given by law; and in such cases, not with strong hands, nor with a multitude of people, but only in a peaceable manner; and if any person from henceforth do to the contrary, and thereof be duly convicted, he shall be punished by fine. No person to make forcible entry into lands, &c.

(2.) SEC. II. [As amended on pages 16 and 17 of the amendments of 1852 to the revised statutes:] Any justice of the peace shall have authority to inquire as hereinafter directed, as well against those who may make Justices of the peace have jurisdiction in cases of forcible entry and detainer.

unlawful or forcible entry into lands, tenements, or other possessions, and detain the same, as against those who having lawful and peaceful entry into lands, tenements, or other possessions, unlawfully and forcibly detain the same; and if it be found upon such inquiry, that an unlawful or forcible entry hath been made, and that said lands, tenements or other possessions are unlawfully detained by force and strong hand, or that the same, after a lawful entry, are so held or detained unlawfully, then such justice shall cause the party complaining to have restitution thereof.

Upon complaint being filed, justice to issue summons.

(3.) SEC. III. When any complaint shall be made in writing, to any justice of the peace, of any such unlawful or forcible entry or unlawful detainer, said justice shall issue a summons, directed to the sheriff or any constable of the same county, commanding him to summon the person or persons against whom such complaint shall have been made, to appear before the said justice on a day in such summons named, which shall not be less than six, nor more than ten days from the day of issuing such summons, and at the place therein mentioned.

Summons how served.

(4.) SEC. IV. Such summons shall be served upon the person or persons against whom the same is issued, by delivering a certified copy thereof to such person or persons, at least three days before the return day thereof; and the officer serving the same shall make a special return of the time and manner of serving said summons.

Trial by jury may be demanded by either party.

(5.) SEC. V. After the return of said summons, served as hereinbefore provided; and at the time and place appointed in said summons, the said justice shall proceed to hear and determine said complaint: *provided*, that if either party shall call for a trial by jury, the said justice shall issue a venire, in the same manner, and upon the same terms, as in other cases provided for trial by jury in justice's court; and such jury shall be sworn as in other cases.

Summons may be served by copy in certain cases.

(6.) SEC. VI. If at the time of making said complaint, it shall be made to appear that the person or persons against whom said complaint is made, or either of them are absent from the county, it shall be the duty of the justice before whom the same is made, to issue his summons as hereinbefore provided, and make the same returnable not less than six, nor more than ten days from the time of issuing the same, and such summons may be served by leaving a true and attested copy thereof at the last and usual place of such person or persons' abode, not less than six days before the return day thereof; such copy shall be left with some member of the family, or some person residing at such place, of suitable age and discretion, to whom the contents thereof shall be explained by the officer leaving the same; and the said officer shall make a special return of the time and manner of serving said summons; and the suit shall thereafter proceed the same as though a personal service were had of such summons.

Continuance when granted.

(7.) SEC. VII. The justice may at his discretion, adjourn any trial under this chapter, not exceeding six days; but in all cases mentioned in section twelve of this chapter, if the defendant, his agent or attorney, shall make oath that he cannot safely proceed to trial, for the want of some material witness, naming him, that he has made due exertion to obtain said witness, and believes if an adjournment be allowed, he will be able to procure the attendance of said witness, or his deposition, in season to produce the same upon such trial; in which case, if such person or persons will give bond, with one or more sufficient sureties, conditioned to pay the said complainant for all rent which may accrue during the pendency of such suit, and all costs and damages consequent upon such adjournment, the said justice shall adjourn said cause for such reasonable time as may appear necessary, not exceeding three months.

(8.) SEC. VIII. The deposition of any witness whose testimony may be considered necessary by either party, may be taken for the same reason, in the same manner, and with the same effect, as is provided by law for taking of depositions to be used in justices' courts.

Depositions may be used in certain cases.

(9.) SEC. IX. If, upon the trial of any complaint under this chapter, the justice or jury shall find that the defendant or defendants, or either of them, are guilty of the allegations in the complaint, the said justice shall thereupon enter judgment for the complainant, to have restitution of the premises, and shall impose such fine, not exceeding one hundred dollars, considering all the circumstances, as he may deem just, and shall tax the costs for the complainant, and may issue execution in favor of said complainant, for such costs as in other actions ex delicto, and the said justice shall also award and issue a writ of restitution; but if the said justice or the jury, find that the person complained of is not guilty, the complaint, in their opinion, not having been supported, the said justice shall tax the cost against the complainant, and issue execution therefor.

Judgment how entered when defendant is found guilty.

(10.) SEC. X. If the jury impaneled as aforesaid, cannot agree upon a verdict, the justice before whom the trial is pending may discharge said jury, if in his opinion they are not likely to agree upon a verdict, and issue a venire returnable forthwith, or at some other time agreed upon by the parties, for the purpose of impaneling a new jury.

Proceedings where jury cannot agree.

(11.) SEC. XI. The complainant of any forcible entry, or of any unlawful detainer, as aforesaid, who shall recover against the person complained of as aforesaid, shall be entitled to recover treble damages, with costs of suit, by a civil action against the offender or offenders, to be brought before any justice of the peace, or court of record, for that purpose: *provided, always*, that nothing contained in the foregoing part of this chapter, shall be construed to extend to any person or persons who have had quiet, peaceable and uninterrupted occupation of any lands, tenements, or other possessions, otherwise than by demise or lease, for the period of three whole years next before the entering of such complaint, anything in this chapter to the contrary notwithstanding.

Treble damages allowed.

(12.) SEC. XII. When any person shall hold over any lands, tenements or other possessions, after a sale thereof on an execution against such person, and expiration of the time for redemption, or after a sale thereof under a mortgage upon foreclosure by advertisement, or after the termination of the time for which they are demised or let to him or her, or to the person under whom he or she holds possession, or contrary to the conditions or covenants of the lease or agreement under which he or she holds, or after any rent shall have become due, according to the terms of such lease or agreement, and shall remain unpaid for the space of three days; in all such cases, if the lessor, his heirs, executors, administrators, assigns, agent or attorney, shall make demand in writing of such tenant or person holding over, that he or she shall deliver possession of the premises held as aforesaid, and if such tenant or person holding over shall refuse, or neglect for the space of three days after such demand, to quit the possession of such lands or tenements, or to pay the rent therefor, so due and unpaid as aforesaid, upon complaint thereof to any justice of the peace of the county, the justice shall proceed to hear, try and determine the same, in the same manner as in other cases hereinbefore provided for: *provided*, that in all cases mentioned in this section, the justice shall impose no fine upon such tenants, or persons holding over.

Persons holding over to be tried by justice of the peace.

Proviso.

(13.) SEC. XIII. [As amended on page 17 of the amendments of 1852 to the revised statutes.] The preceding section shall not extend to any person who has or shall have continued in possession three years after the termination of the time for which the premises were demised or let to

Limitation of preceding section.

him or her, or those under whom he or she claims, or after the sale thereof, as aforesaid; or to any person who continues in possession three years quietly and peaceably by disseizin, anything contained in this chapter to the contrary notwithstanding.

Complainant may bring civil actions against defendant.

(14.) SEC. XIV. The complainant shall be entitled to bring a civil action against the person complained of, and who shall be found guilty on the trial, and may recover treble damages from the time of notice to quit the premises, and until that time damages only.

Penalty for neglect to serve as juror.

(15.) SEC. XV. Every person summoned as a juror, or subpoenaed as a witness, who shall not appear, or, who appearing, shall refuse to serve or give evidence in any prosecution instituted by virtue of this chapter, shall forfeit and pay for every such default or refusal, unless some reasonable cause be assigned, such fine, not exceeding ten dollars, as the said justice shall think proper to impose.

Fines to be for the use of common schools.

(16.) SEC. XVI. All fines imposed by virtue of any provisions in this chapter, shall be paid to the county treasurer of the county where the action is commenced, for the use of common schools; and the said justice may commit the person against whom the fine is imposed, to the common jail of the county, until such fine be paid, or the said justice may issue execution therefor, as in other cases ex delicto.

Appeal when and how taken.

(17.) SEC. XVII. If either party shall feel aggrieved by the verdict of the jury, or decision of the justice, he may appeal within ten days, as in other cases tried before justices of the peace, excepting his bond shall be with two or more sufficient sureties to be approved by said justice, conditioned to pay all costs of such appeal, and abide the order the court may make therein, and pay all rent and other damages justly accruing to said complainant during the pendency of such appeal.

Stay of proceedings upon appeal.

(18.) SEC. XVIII. Upon the taking of such appeal, all further proceedings in the case shall be thereby stayed, and the appellate court shall thereafter issue all needful writs and processes, to carry out the provisions of this chapter, according to the true intent and meaning thereof.

If restitution allowed before appeal, justice to give certificate.

(19.) SEC. XIX. If a writ of restitution shall have been issued previous to the taking of any appeals, as provided in this chapter, the justice shall forthwith give the appellant a certificate of the allowance of such appeal; and upon the service of such certificate upon the officer having such writ of restitution, the said officer shall forthwith cease all further proceedings by virtue of such writ; and if such writ shall not have been completely executed, the defendant shall remain in possession of the premises, until the appeal shall have been determined.

Proceedings in appellate court.

(20.) SEC. XX. In all cases of appeal under the provisions of this chapter, the appellate court shall not dismiss or quash the proceedings for want of form only, provided they have been conducted substantially, according to the provisions of this chapter.

Amendments may be allowed by court.

(21.) SEC. XXI. [*As amended on page 17 of the amendments of 1852 to the revised statutes.*] Amendments may be allowed by the court at any time before final judgment, upon such terms as to the court shall appear just, in the same cases and manner, and to the same extent as in civil actions.

What matters to be set up in answer.

(22.) SEC. XXII. All matters in excuse, justification, or avoidance of the allegations in the complaint, shall be set up in the answer.

Appellate court may compel amended return.

(23.) SEC. XXIII. The appellate court shall have power to compel the justice, by attachment, to make or amend any return which shall be withheld, or insufficiently or improperly made.

Forms adopted.

(24.) SEC. XXIV. The following or equivalent forms shall be used in proceedings under this chapter, to wit:

Form of summons.

Territory of Minnesota, }
 county of . } ss.

Form of sum-
 mons.

To the sheriff or any constable of the county aforesaid :

Whereas, , of , hath exhibited unto a justice of the peace, in and for said county aforesaid, a complaint against of , for that the said , on the day of , at , (here insert the substance of the complaint with legal certainty); therefore, in the name of the United States, you are hereby commanded to summon the said , if to be found in the said county, to appear before me at , on day of , at of the clock in the noon, then and there to make answer to, and defend against the complaint aforesaid, and further to be dealt with according to law, and make due return to me of this summons, with your doings thereon.

Dated at , this day of , in the year one thousand eight hundred and .

J. P. justice of the peace.

Form of writ of restitution.

Territory of Minnesota, }
 county of . } ss.

Form of writ of
 restitution.

To the sheriff or any constable of the county aforesaid :

Whereas, , of , at the court of inquiry of an unlawful or forcible entry and unlawful detainer, held at , in the county aforesaid, on the day of , one thousand eight hundred and , before , a justice of the peace, in and for the county aforesaid, by the consideration of the court, recovered judgment against , of , to have restitution of, (here describe the premises as in the complaint); therefore, in the name of the United States, you are hereby commanded, that taking with you the force of the county, if necessary, you cause the said to be immediately removed from the aforesaid premises, and the said to have peaceable restitution of the same; you are also hereby commanded, that of the goods and chattels of the said , within said county, you cause to be levied, and the same being disposed of according to law; to be paid to the said , the sum of , being the cost taxed against said , for the said , at the court aforesaid, together with twenty-five cents for this writ, and thereof together with this writ, make due return within thirty days from the date hereof, according to law.

Dated at , the day of , one thousand eight hundred and .

Form of verdict.

At a court of inquiry held at , on the day of , one thousand eight hundred and , before , a justice of the peace, in and for the county of , complainant, against , respondent, the jury find the facts alleged in the said complaint are true, that the said is guilty thereof, and the said ought to have restitution of the premises therein described without delay; (or in case the jury do not find the allegation of complaint proved) the jury find that the facts alleged in the same complaint are not proved, and that the said is not guilty thereof.

C. D., foreman.

J. P., justice of the peace.