

21079  
65

# GENERAL STATUTES

OF THE

# STATE OF MINNESOTA.

PREPARED BY THE COMMISSIONERS APPOINTED TO REVISE  
THE STATUTES OF THE STATE, BY ACT OF THE  
LEGISLATURE, PASSED FEBRUARY 17, 1863.

ONE HUNDRED COPIES ORDERED PRINTED.



SAINT PAUL:

FREDERICK DRISCOLL, STATE PRINTER.

(PRESS PRINTING COMPANY.)

1865.

27

D

718 ATTORNEYS AND COUNSELLORS. [CHAP. LXXXVIII.

7 to satisfy his costs and expenses; which order, and the ac-  
8 ceptance of money under it, is a bar to an action by the ag-  
9 grievd party for such loss and injury.

c81

C. S. p. 664, Sect. 14.

1 SECT. 14. When the contempt consists in the omission  
2 to perform an act which is yet in the power of the person to  
3 perform, he may be imprisoned until he performs it;  
4 and in that case the act shall be specified in the warrant of  
5 commitment.

C. S. p. 664, Sect. 15.

1 SECT. 15. Persons proceeded against, according to the  
2 provisions of this chapter, are also liable to indictment for  
3 the same misconduct, if it is an indictable offense, but the  
4 court before which a conviction is had on the indictment, in  
5 passing sentence, shall take into consideration the punish-  
6 ment before inflicted.

C. S. p. 665, Sect. 16.

1 SECT. 16. When the warrant of arrest has been return-  
2 ed served, if the person arrested does not appear on the re-  
3 turn day, the court or officer may issue another warrant of  
4 arrest, or may order the recognizance to be prosecuted, or  
5 both. If the recognizance is prosecuted, the measure of  
6 damages in the action, is the extent of the loss or injury  
7 sustained by the aggrieved party, by reason of the miscon-  
8 duct for which the warrant was issued, and the costs of the  
9 proceedings.

C. S. p. 665, Sect. 17.

1 SECT. 17. Whenever, by the provisions of this chapter,  
2 an officer is required to keep a person arrested in actual  
3 custody, and to bring him before a court or officer, the in-  
4 ability, from illness or otherwise, of the person to attend,  
5 is a sufficient excuse for not bringing him up.

CHAPTER LXXXVIII.

ATTORNEYS AND COUNSELLORS.

c82

C. S. p. 665, Sect. 2.

1 SECTION 1. Any male person, of the age of twenty-  
2 one years, of good moral character, and who possesses the  
3 requisite qualifications of learning and ability, is entitled to  
4 admission to practice in all the courts of this state.

C. S. p. 666, Sect. 3.

1 SECT. 2. For the purpose of admission, he shall apply  
2 to the supreme court or any district court when in session,  
3 and shall show first, that he is of the age of twenty-one  
4 years, which proof may be made by his own affidavit; and

## CHAP. LXXXVIII.] ATTORNEYS AND COUNSELLORS. 719

5 second, that he is a person of good moral character, which  
6 may be proved by certificate or other evidence satisfactory  
7 to the court.

1 SECT. 3. The applicant shall also be examined in open C. S. p. 666, Sect. 4. c 82  
2 court, as to his qualifications of learning and ability, by the  
3 judges, or under their direction, at the term at which ap-  
4 plication for admission is made.

1 SECT. 4. If, upon the examination, he is found duly  
2 qualified, the court shall direct an order to be entered, to C. S. p. 666, Sect. 5.  
3 the effect that the applicant is a citizen of the United States,  
4 of the age of twenty-one years, of good moral character,  
5 and possesses the requisite qualifications of learning and  
6 ability, to practice as an attorney and counsellor in all the  
7 courts of this state; and upon the entry of the order, he is  
8 entitled to practice as such attorney and counsellor.

1 SECT. 5. It is the duty of any attorney and counsellor :  
2 *First.*—To support the constitution and laws of the Unit-  
3 ed States, and of this state ;  
4 *Second.*—To maintain the respect due to the courts of C. S. p. 666, Sect. 7.  
5 justice and judicial officers ;  
6 *Third.*—To counsel or maintain such actions, proceed-  
7 ings or defenses, only, as appear to him legal and just, ex-  
8 cept the defense of a person charged with a public offense ;  
9 *Fourth.*—To employ, for the purpose of maintaining the  
10 cause confided to him, such means only as are consistent  
11 with truth, and never to seek to mislead the judges by any  
12 artifice or false statement of fact or law ;  
13 *Fifth.*—To maintain inviolate the confidence, and at ev-  
14 ery peril to himself to preserve the secrets of his client ;  
15 *Sixth.*—To abstain from all offensive personality and to  
16 advance no fact prejudicial to the honor or reputation of a  
17 party or witness, unless required by the justice of the cause  
18 with which he is charged.  
19 *Seventh.*—Not to encourage either the commencement or  
20 continuance of an action or proceeding from any motive of  
21 passion or interest ; and,  
22 *Eighth.*—Never to reject, for any consideration personal  
23 to himself, the cause of the defenseless or oppressed.

1 SECT. 6. An attorney or counsellor who is guilty of de-  
2 ceit or collusion, or consents thereto, with intent to deceive C. S. p. 666, Sect. 8.  
3 a court or judge, or a party to an action or judicial proceed-  
4 ing, is punishable for a misdemeanor, and shall also forfeit  
5 to the party injured, treble damages, recoverable in a civil  
6 action.

1 SECT. 7. If an attorney and counsellor knowingly permits

c 82

c. s. p. 666, Sect. 9.

2 a person not his general law partner to sue out process, or  
 3 to prosecute or defend an action or proceeding in his name,  
 4 he and every person who so uses his name, shall severally  
 5 forfeit to the party against whom the process was issued,  
 6 on the action or proceeding prosecuted or defended, the sum  
 7 of fifty dollars, recoverable in a civil action.

New.

1 SECT. 8. No person shall appear in any action or pro-  
 2 ceeding, in the supreme or district court, to maintain or de-  
 3 fend the same, unless previously admitted to practice as  
 4 herein provided.

c. s. p. 667, Sect. 10.

1 SECT. 9. An attorney and counsellor has authority :  
 2 *First.*—To bind his client in any of the proceedings, in  
 3 an action or special proceeding by his agreement duly made  
 4 or entered upon the minutes of the court; but such agree-  
 5 ment or stipulation shall be disregarded unless made in  
 6 open court, or in presence of the clerk, and entered in the  
 7 minutes by him, or in writing and signed by the party  
 8 against whom the same is alleged, or his attorney ;  
 9 *Second.*—To receive money claimed by his client in an  
 10 action or special proceeding during the pendency thereof,  
 11 or within two years after judgment, and upon the payment  
 12 thereof, and not otherwise, to discharge the claim or ac-  
 13 knowledge satisfaction of the judgment.

14 But this section does not prevent a party employing a  
 15 new attorney to issue an execution upon a judgment, or to  
 16 take other proceedings prescribed by the statute for its en-  
 17 forcement; and when he does so, the authority of the for-  
 18 mer attorney ceases.

c. s. p. 667, Sect. 11.

1 SECT. 10. If it is alleged by a party for whom an attor-  
 2 ney appears, that he does so without authority, the court  
 3 may at any stage of the proceedings relieve the party for  
 4 whom the attorney has assumed to appear from the conse-  
 5 quences of his acts; it may also summarily upon motion,  
 6 compel the attorney to repair the injury to either party con-  
 7 sequent upon his assumption of authority.

c. s. p. 667, Sect. 12.

1 SECT. 11. The court or a judge may, on motion of either  
 2 party, and on showing reasonable grounds therefor, require  
 3 the attorney for the adverse party, or for any one of sever-  
 4 al adverse parties, to produce or prove the authority under  
 5 which he appears, and until he does so, may stay all pro-  
 6 ceedings by him on behalf of the party for whom he assumes  
 7 to appear.

## CHANGE OF ATTORNEY.

1 SECT. 12. The attorney in an action or special proceed-

## CHAP. LXXXVIII.] ATTORNEYS AND COUNSELLORS. 721

2 ing, may be changed at any time before judgment or final  
3 determination, as follows: C. S. p. 667, Sect. 13. c 81

4 *First.*—Upon his own consent, filed with the clerk or  
5 entered upon the minutes; or,

6 *Second.*—Upon the order of the court, or a judge thereof,  
7 on the application of the client, or for other sufficient cause;  
8 but no such change can be made until the charges of  
9 such attorney are paid by the party asking such change to  
10 be made.

1 **SECT. 13.** When an attorney is changed, as provided in  
2 the last section, written notice of the change, and of the sub-  
3 stitution of a new attorney, or of the appearance of the par- C. S. p. 667, Sect. 14.  
4 ty in person shall be given to the adverse party; until then,  
5 he is bound to recognize the former attorney.

1 **SECT. 14.** When an attorney dies, or is removed, or  
2 suspended, or ceases to act as such, a party to an action for C. S. p. 667, Sect. 15.  
3 whom he was acting as attorney, shall, at least thirty days  
4 before any further proceedings against him, be required by  
5 the adverse party, by written notice, to appoint another at-  
6 torney.

## LIEN OF ATTORNEYS.

1 **SECT. 15.** An attorney has a lien for his compensation,  
2 whether specially agreed upon or implied, as provided herein. C. S. p. 668, Sect. 16.

3 *First.*—Upon the papers of his client, which have come  
4 into his possession in the course of his professional employ-  
5 ment;

6 *Second.*—Upon money in his hands belonging to his cli-  
7 ent;

8 *Third.*—Upon money in the hands of the adverse party  
9 in an action or proceeding, in which the attorney was em-  
10 ployed from the time of giving notice of the lien to that party;

11 *Fourth.*—Upon a judgment to the extent of the costs in-  
12 cluded therein, or if there is a special agreement, to the ex-  
13 tent of the compensation specially agreed on, from the time  
14 of giving notice to the party against whom the judgment is  
15 recovered. This lien is, however, subordinate to the rights  
16 existing between the parties to the action or proceeding.

## SUMMARY POWER OF THE COURT OVER ATTORNEYS.

1 **SECT. 16.** When an attorney refuses to deliver over  
2 money or papers, to a person from or for whom he has re- C. S. p. 668, Sect. 17.  
3 ceived them in the course of professional employment,  
4 whether in an action or not, he may be required by an or-  
5 der of the court in which an action, if any, was prosecuted,  
6 or if no action was prosecuted, then by order of the supreme

## 722 ATTORNEYS AND COUNSELLORS. [CHAP. LXXXVIII.]

7 court, to do so within a specified time, or show cause why  
8 he should not be punished for a contempt.

c 82 C. S. p. 668, Sect. 18.

1 SECT. 17. If, however, the attorney claims a lien upon  
2 the money or papers, under the provisions of this chapter,  
3 the court may ;  
4 *First.*—Impose as a condition of making the order, that  
5 the client give security in a form and amount to be directed  
6 to satisfy the lien when determined in an action ; or,  
7 *Second.*—Summarily inquire into the facts on which the  
8 claim of a lien is founded, and determine the same ; or,  
9 *Third.*—Direct the trial of the controversy by a jury, or  
10 refer it, and upon the verdict or report, determine the  
11 same, as in other cases.

## REMOVAL OR SUSPENSION OF ATTORNEYS AND COUNSELLORS.

C. S. p. 668, Sect. 19.

1 SECT. 18. An attorney and counsellor may be removed  
2 or suspended by the supreme court, at a general term there-  
3 of, for either of the following causes, arising after his ad-  
4 mission to practice :  
5 *First.*—Upon his being convicted of felony, or of a mis-  
6 demeanor involving moral turpitude, in either of which  
7 cases the record of his conviction is conclusive evidence ;  
8 *Second.*—Upon its being shown to the satisfaction of the  
9 court, that he has knowingly signed a frivolous pleading,  
10 or has been guilty of any other deceit or wilful misconduct  
11 in his profession ;  
12 *Third.*—For a wilful disobedience or violation of the  
13 order of court, requiring him to do or forbear an act con-  
14 nected with or in the course of his profession ;  
15 *Fourth.*—For a wilful violation of any of the provisions  
16 of section five.

C. S. p. 668, Sect. 20.

1 SECT. 19. The proceedings to remove or suspend an  
2 attorney and counsellor, as provided in the last section,  
3 may be taken by the court of its own motion for matter  
4 within its knowledge, or upon the information of another.

C. S. p. 669, Sect. 21.

1 SECT. 20. If the proceeding is upon the information of  
2 another, the accusation shall be in writing and presented to  
3 the court.

C. S. p. 669, Sect. 22.

1 SECT. 21. The accusation shall state the matter charg-  
2 ed, and be verified by the oath of the person making it, or  
3 of some other person, to the effect that the charges therein  
4 contained are true.

C. S. p. 669, Sect. 23.

1 SECT. 22. After receiving the accusation, the court shall,  
2 if in its opinion the case requires it, make an order requiring

## CHAP. LXXXVIII.] ATTORNEYS AND COUNSELLORS. 723

3 the accused to appear and answer the accusation at a speci-  
 4 fied time in the same or a subsequent term, and cause a  
 5 copy of the order and of the accusation to be served upon  
 6 the accused, within a prescribed time before the day ap-  
 7 pointed in the order.

1 SECT. 23. The accused shall appear at the time appoint-  
 2 ed in the order, and answer the accusation, unless for suffi- C. S. p. 669, Sect. 24. **c 82**  
 3 cient cause the court assign another day for that purpose.  
 4 If he does not appear, the court may proceed and deter-  
 5 mine the accusation in his absence.

1 SECT. 24. The accused may answer the accusation, eith-  
 2 er by objecting to its sufficiency, or denying its truth. C. S. p. 669, Sect. 25.

1 SECT. 25. If he objects to the sufficiency of the accusa- C. S. p. 669, Sect. 26.  
 2 tion, the objection shall be in writing, but need not be in  
 3 any specified form, it being sufficient if it presents intelli-  
 4 gibly the grounds of the objection. If he denies the truth  
 5 of the accusation, the denial may be oral and without oath,  
 6 and shall be entered upon the minutes.

1 SECT. 26. If an objection to the sufficiency of the accu- C. S. p. 669, Sect. 27.  
 2 sation is not sustained, the accused shall answer it forth-  
 3 with.

1 SECT. 27. If the accused pleads guilty, or refuses to C. S. p. 669, Sect. 28.  
 2 answer the accusation, the court shall proceed to judgment  
 3 of removal or suspension. If he denies the matters charg-  
 4 ed, the court shall immediately, or at such time as it may  
 5 appoint, proceed to try the accusation.

1 SECT. 28. In case of a judgment of suspension or re-  
 2 moval, the accused may within ten days after it is pro- C. S. p. 669, Sect. 29.  
 3 nounced, make a case setting forth the evidence, and other  
 4 proceedings in the matter upon the hearing thereof, which  
 5 shall be settled by the court in the same manner as a case  
 6 in a civil action; when settled it shall be filed by the clerk  
 7 of the court by which the judgment was given.

1 SECT. 29. The following papers shall be annexed to- C. S. p. 669, Sect. 30.  
 2 gether, and filed by the clerk within two days after the  
 3 filing of the case, or within such further time as the court  
 4 or judge thereof may prescribe:  
 5 *First.*—The accusation;  
 6 *Second.*—The objections or answers thereto;  
 7 *Third.*—The case mentioned in the last section;  
 8 *Fourth.*—A copy of the entries upon the minutes of the  
 9 court, relating to the accusation and the proceedings there-  
 10 on, including the order of suspension or removal.

c 82

C. S. p. 689, Sect. 31.

1 SECT. 30. Any court, except a justice's court, may sus-  
 2 pend an attorney and counsellor from practising therein, for  
 3 any of the causes mentioned in section eighteen, for a period  
 4 not beyond the adjournment of the next general term of the  
 5 supreme court; the order of suspension shall state the cause  
 6 thereof, and be entered upon the minutes, and a certified  
 7 copy thereof transmitted by the court by which it is made  
 8 to the next general term of the supreme court which may  
 9 proceed thereon against the person suspended, in the man-  
 10 ner provided in this chapter.

## CHAPTER LXXXIX.

## ARBITRATORS.

c 85

C. S. p. 689, Sect. 1.  
Amended.

1 SECTION 1. All controversies which can be the subject  
 2 of a civil action, may be submitted to the decision of one or  
 3 more arbitrators in the manner provided in this chapter.

C. S. p. 689, Sect. 2.

1 SECT. 2. No such submission shall be made respecting  
 2 the claim of any person, to any estate in fee, or for life to  
 3 real estate, but any claim to an interest for a term of years,  
 4 or for one year or less, in real estate, and controversies res-  
 5 pecting the partition of lands between joint tenants, or ten-  
 6 ants in common, or concerning the boundaries of lands, or  
 7 concerning the admeasurement of dower, may be submitted  
 8 to arbitration.

C. S. p. 689, Sect. 3.

1 SECT. 3. The parties shall appear in person, or by their  
 2 lawful agents or attorneys, before any justice of the peace,  
 3 and shall there sign and acknowledge an agreement in sub-  
 4 stance as follows.

5 " Know all men, that of and  
 6 of have agreed to submit the demand, a  
 7 statement whereof is hereto annexed, (and all other de-  
 8 mands between them as the case may be,) to the determina-  
 9 tion of and the award of whom or the  
 10 greater part of whom, being made and reported within  
 11 from this day, to the district court for the county of  
 12 the judgment thereon shall be final; and if either  
 13 of the parties shall neglect to appear before the arbitrators,  
 14 after due notice given him of the time and place appointed  
 15 for hearing the parties, the arbitrators may proceed in his  
 16 absence.

17 Dated this day of in the year .  
 18 And the justice shall subjoin to the said agreement his  
 19 certificate, in substance as follows :