

THE *J. Rogers*
GENERAL STATUTES

OF THE

STATE OF MINNESOTA:

REVISED BY COMMISSIONERS APPOINTED UNDER AN ACT APPROVED FEBRUARY 17, 1868, AND
ACTS SUBSEQUENT THERETO, AMENDED BY THE LEGISLATURE,
AND PASSED AT THE SESSION OF 1866.

TO WHICH

THE CONSTITUTION OF THE UNITED STATES, THE ORGANIC ACT, THE
ACT AUTHORIZING A STATE GOVERNMENT, AND THE
CONSTITUTION OF THE STATE OF MINNESOTA,

ARE PREFIXED;

AND A LIST OF ACTS PREVIOUSLY REPEALED,

A GLOSSARY, AND INDEX, ARE ADDED.

Edited and Published under the authority of Chapters 15 and 16 of
the Laws of 1866.

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1872.

SEC. 8. A recovery of a judgment, for a penalty or forfeiture, by collusion between the parties, with intent to save the defendant from the consequences contemplated by law, in case where the penalty or forfeiture is given wholly or partly to the prosecutor, does not prevent the recovery of the same by another person.

Judgment obtained by collusion, no bar to action by another person.

SEC. 9. Fines and forfeitures, not specially granted or appropriated by law, shall be paid into the treasury of the state; and whenever any property, real or personal, is forfeited to the state, or to any officer, for its use, an action for the recovery of such property, alleging the grounds of the forfeiture, may be brought by the proper officer, in the district court of any county where such property may be.

Fines and forfeitures, where paid—place of trial of actions for property forfeited to state.

1870-140

SEC. 10. All fines and forfeitures imposed as a punishment for any offense, or for the violation or neglect of any duty imposed by statute, may be prosecuted for and recovered by indictment in the district court; or when the amount or value thereof does not exceed one hundred dollars, the same may be prosecuted for by complaint before a justice of the peace, who shall have jurisdiction therefor concurrently with the district court, and in all cases of the imposition of a fine pursuant to statute, as punishment for any offense, the offender may be committed till the same is paid, or he is otherwise discharged according to law.

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CHAPTER LXXIX.

ACTIONS TO VACATE CHARTERS AND LETTERS PATENT, AND TO PREVENT THE USURPATION OF AN OFFICE OR FRANCHISE.

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SECTION

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SECTION 1. An action may be brought by the attorney general in the name of the state, whenever the legislature so directs, against a corporation, for the purpose of vacating or annulling the act of incorporation, or an act renewing its corporate existence, on the ground that such act or renewal was procured upon some fraudulent suggestion, or concealment of a material fact by the persons incorporated, or some of them, or with their knowledge and consent.

Action against corporation to annul act of incorporation, brought by attorney general, when.

Action to vacate charter, brought, when.

SEC. 2. An action may be brought by the attorney general in the name of the state, for the purpose of vacating the charter, or annulling the existence of a corporation, other than municipal, whenever such corporation:

First. Offends against any of the provisions of the act, or acts, creating, altering, or renewing such corporation; or,

Second. Violates the provisions of any law, by which such corporation forfeits its charter, by abuse of its powers; or,

Third. Whenever it has forfeited its privileges, or franchises, by failure to exercise its powers; or,

Fourth. Whenever it has done, or omitted any act, which amounts to a surrender of its corporate rights, privileges and franchises; or,

Fifth. Whenever it exercises a franchise or privilege not conferred upon it by law.

And the attorney general shall bring the action in every case of public interest, whenever he has reason to believe that any of these acts or omissions can be proved; and also in every other case in which satisfactory security is given to indemnify the state against the costs and expenses to be incurred thereby.

Action against party usurping or forfeiting office, brought, when.

SEC. 3. An action may be brought by the attorney general in the name of the state, upon his own information, or upon the complaint of a private party, against the party offending in the following cases:

First. When any person usurps, intrudes into or unlawfully holds or exercises any public office, or any franchise within this state, or any office in a corporation created by the authority of this state; or,

Second. When any public officer has done, or suffered an act, which by the provisions of law causes a forfeiture of his office; or,

Third. When any association or number of persons act within this state as a corporation without being duly incorporated. And the attorney general shall bring the action whenever he has reason to believe that any of these acts can be proved.

Action to vacate letters patent, brought, when.

SEC. 4. An action may be brought by the attorney general in the name of the state for the purpose of vacating or annulling letters patent, granted by the state in the following cases:

First. When he has reason to believe that such letters patent were obtained by means of some fraudulent suggestion or concealment of a material fact, made by the person to whom the same were issued or made with his consent or knowledge; or,

Second. When he has reason to believe that such letters patent were issued through mistake, or in ignorance of a material fact;

Third. When he has reason to believe that the patentee, or those claiming under him, have done or omitted any act in violation of the terms and conditions on which the letters patent were granted, or have by any other means forfeited the interest acquired under the same.

Name of complainant to be joined as party with state. 3 Min., 240.

SEC. 5. When an action is brought by the attorney general, by virtue of this chapter, on the complaint or information of any person having an interest in the question, the name of such person shall be joined with the state as plaintiff.

Action for usurping office, complaint shall contain, what.

SEC. 6. Whenever such action is brought against a person for usurping an office, the attorney general, in addition to the statement of the cause of action, may also set forth in the complaint the name of the person rightfully entitled to the office, with a statement of his right thereto, and in every such case, judgment may be rendered upon the right of the defendant, and also upon the right of the party so alleged to be entitled, or only upon the right of the defendant, as justice requires.

SEC. 7. If judgment is rendered in favor of the person so alleged to be entitled, he shall be entitled, after taking the oath of office, and executing such official bond as may be required by law, to take upon himself the execution of the office, and may be put in possession thereof, and of the books and papers belonging thereto by order of the court, and any party refusing to deliver the same when ordered by the court, shall be punished as for a contempt; and he may also recover, by action, the damages which he sustains by reason of the usurpation of the office by the defendant.

Claimant obtaining judgment, entitled to be put in possession of office, books, &c.

SEC. 8. When several persons claim to be entitled to the same office or franchise, one action may be brought against all such persons, in order to try their respective rights to such office or franchise.

All claimants may be joined in one action.

SEC. 9. When a person or a corporation, is adjudged guilty of usurping or intruding into, or unlawfully holding or exercising any office, franchise, or privilege, judgment shall be rendered, that such person or corporation be excluded from the office, franchise, or privilege. The court may also in its discretion, impose upon the defendant a fine not exceeding one thousand dollars.

Judgment in actions under this chapter, how rendered—court may impose fine.

SEC. 10. If it is adjudged that a corporation has by neglect, abuse, or surrender, forfeited its corporate rights, privileges, and franchises, judgment shall be rendered that the corporation be excluded from such corporate rights, privileges, and franchises, and that the corporation be dissolved.

Corporation adjudged dissolved, when.

SEC. 11. If judgment is rendered in such action, against a corporation, or against persons claiming to be a corporation, the court may cause the costs therein to be collected by execution against the persons claiming to be a corporation, or by process against the directors or other officers of such corporation.

Costs, how collected.

SEC. 12. When such judgment is rendered against a corporation, the court has power to restrain the corporation, to appoint a receiver of its property, and take an account and make distribution thereof among its creditors, and the attorney general, immediately after the rendition of such judgment shall institute proceedings for that purpose.

Court may grant injunction and appoint receiver.

SEC. 13. Upon the rendition of such judgment against a corporation, or for the vacating or annulling of letters patent, the attorney general shall cause a copy of the judgment roll to be forthwith filed in the office of the secretary of state.

Record of judgment roll to be filed.