

THE *J. A. Rogers*  
GENERAL STATUTES

OF THE

STATE OF MINNESOTA:

REVISED BY COMMISSIONERS APPOINTED UNDER AN ACT APPROVED FEBRUARY 17, 1863, 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AND A LIST OF ACTS PREVIOUSLY REPEALED,  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.

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

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sary to satisfy the amount of judgment rendered in favor of the plaintiff, and all the costs that have accrued.

SEC. 20. 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.

SEC. 21. No continuance of a cause, under this chapter, shall be granted to the plaintiff.

SEC. 22. In all cases arising under this chapter, if judgment is rendered in favor of the plaintiff, the master, owner, agent, or consignee of the boat or vessel, or other person interested, may appeal from the judgment, as in other cases.

SEC. 23. All actions against a boat or vessel, under the provisions of this chapter, shall be commenced within one year after the cause of action accrues.

## CHAPTER LXXXIV.

1874-212

### FORCIBLE ENTRIES AND UNLAWFUL DETAINERS.

#### SECTION

1. Forcible entry into lands or tenements forbidden.
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#### SECTION

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17. Amendments may be allowed.
18. Answer to contain, what.
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20. Forms allowed.

SECTION 1. No person shall hereafter make an entry into lands or tenements, except 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; if any person from henceforth does to the contrary, he shall be punished by fine.

SEC. 2. Any justice of the peace has authority to inquire as herein-after directed; as well against those who may make unlawful or forcible entry into lands or tenements, and detain the same, as against those who having lawful or peaceful entry into lands or tenements, unlawfully and forcibly detain the same; and if it is found upon such inquiry, that an unlawful or forcible entry has been made, and that said lands tenements

Forcible entry  
into lands or ten-  
ments forbidden

Justices of the  
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risdiction.

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are unlawfully detained by force and strong hand, or that the same after a lawful entry, are so held or detained unlawfully, such justice shall cause the party complaining to have restitution thereof.

Upon complaint  
made justice  
shall issue sum-  
mons.

1 Min. 89.  
1 Min. 179.

SEC. 3. When any complaint is 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 county, commanding him to summon the person against whom such complaint is 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.

Summons, how  
served.

1 Min. 179.

SEC. 4. Such summons shall be served upon the person against whom the same is issued, by delivering a certified copy thereof to him, 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.

Proceedings on  
return of sum-  
mons.

SEC. 5. After the return of said summons, and at the time and place appointed therein, the said justice shall proceed to hear and determine said complaint: *provided*, that if either party calls 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 in justices' courts; and such jury shall be sworn as in other cases.

Summons served  
by leaving copy,  
when.

SEC. 6. If at the time of making said complaint, it appears that the person against whom said complaint is made, is absent from the county, the justice before whom the same is made, shall 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's 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, and the said officer shall make a special return of the time and manner of serving said summons; and the action shall thereafter proceed as though a personal service were made of such summons.

Adjournment of  
trial granted,  
when.

SEC. 7. The justice may at his discretion adjourn any trial under this chapter, not exceeding six days; but in all cases mentioned in section eleven of this chapter, when the defendant, his agent or attorney makes 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 is allowed, he will be able to procure the attendance of said witness, or his deposition, in season to produce the same upon such trial, and if such person 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 action, and all costs and damages consequent upon such adjournment, the justice shall adjourn said cause for such reasonable time as appears necessary, not exceeding three months.

Depositions taken  
and used, when.

SEC. 8. The deposition of any witness whose testimony is 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.

Judgment, how  
entered when de-  
fendant is found  
guilty.

SEC. 9. 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,

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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, and 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 justice shall tax the costs against the complainant, and issue execution therefor. Complainant to pay costs, when.

SEC. 10. If the jury cannot agree upon a verdict, the justice may discharge them, and issue a venire, returnable forthwith, or at some other time agreed upon by the parties, or fixed by the justice, for the purpose of impanneling a new jury. Proceedings when jury cannot agree.

SEC. 11. When any person holds over any lands or tenements, after a sale thereof on an execution, judgment, or on foreclosure of a mortgage by advertisement, and expiration of the time for redemption, or after the termination of the time for which they are demised or let to him or to the person under whom he holds possession, or contrary to the conditions or covenants of the lease or agreement under which he holds, or after any rent becomes due, according to the terms of such lease or agreement, or when any tenant at will holds over after the determination of any such estate by notice to quit, in all such cases the party entitled to possession may make complaint thereof to any justice of the peace of the county, and the justice shall proceed to hear, try and determine the same, in the same manner as in other cases hereinbefore provided for; but he shall impose no fine upon such tenants, or persons holding over. Justices have jurisdiction in cases of unlawful detention of lands—proceedings on complaint in such cases.

SEC. 12. No restitution shall be made, under the provisions of this chapter, of any lands or tenements of which the party complained of, or his ancestors, or those under whom he holds the premises, have been in the quiet possession for three years next before the entering of the complaint, unless his estate therein is ended; nor shall a writ of restitution issue in any case for twenty-four hours after judgment, if the party against whom judgment is rendered, or his attorney, states to the justice that he intends to take an appeal. Restitution not to be made, when —writ not to issue for 24 hours in any case.

SEC. 13. If either party feels 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, except that 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. Appeal, when and how taken.

SEC. 14. Upon the taking of such appeal, all further proceedings in the case shall be 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. Proceedings stayed by appeal.

SEC. 15. If a writ of restitution has been issued previous to the taking of an appeal, 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 has not been completely executed, the defendant shall remain in possession of the premises until the appeal is determined. Justice to grant certificate of appeal, when—effect of certificate.

SEC. 16. 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. Appeal not to be dismissed for want of form.

SEC. 17. Amendments may be allowed by the court at any time before final judgment, upon such terms as to the court appear, just, in the same cases and manner, and to the same extent, as in civil actions. Amendments may be allowed.

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Answer to con-  
tain, what.

Appellate court  
may compel jus-  
tice to make or  
amend return.

Forms allowed.

SEC. 18. All matters in excuse, justification or avoidance of the allegations in the complaint, shall be set up in the answer.

SEC. 19. The appellate court has power to compel the justice, by attachment, to make or amend any return which is withheld, or insufficiently or improperly made.

SEC. 20. The following or equivalent forms shall be used in proceedings under this chapter, to wit:

## FORM OF SUMMONS.

State of Minnesota, } ss.  
County of , } ss.

The State of Minnesota,

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 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.

State of Minnesota, } ss. The State of Minnesota,  
County of , } ss.

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 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

J. P., justice of the peace.

## FORM OF VERDICT.

At a court of inquiry held at , on the day of

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ACTIONS BY SETTLERS ON PUBLIC LANDS.

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, 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.

## CHAPTER LXXXV.

### ACTIONS BY PERSONS HOLDING CLAIMS ON UNITED STATES LANDS.

#### SECTION

1. Settler on public land may maintain action to recover possession, or for injuries thereto.
2. Plaintiff's claim defined.

#### SECTION

3. Claim shall be marked—action not maintainable unless by actual settler.
4. Claim considered abandoned, when.

SECTION 1. Any person settled upon any of the public lands belonging to the United States, on which settlement is not expressly prohibited by congress or some department of the general government, may maintain an action for injuries done to the possession thereof, or to recover the possession thereof.

Settler on public land may maintain action to recover possession, or for injuries thereto.

SEC. 2. On the trial of any such cause, the possession, or possessory right of the plaintiff, shall be considered as extending to the boundaries embraced by the claim of such plaintiff, so as to enable him to have and maintain either of the aforesaid actions, without being compelled to prove a natural inclosure: *provided*, that such claim shall not exceed in any case one hundred and sixty acres; and the same may be located in two different parcels, to suit the convenience of the holder.

Plaintiff's claim defined.

SEC. 3. Every such claim, to entitle the holder to maintain either of the aforesaid actions, shall be marked out so that the boundaries thereof may be easily traced, and the extent of such claim easily known; and no person shall be entitled to maintain either of said actions for possession of, or any injury done to, any claim unless he is an actual settler, or causes the land to be constantly occupied, and has improvements, made thereon, to the amount of fifty dollars.

Claim shall be marked—action not maintainable unless by actual settler.

SEC. 4. A neglect to occupy or cultivate such claim, for the period of six months, shall be considered such an abandonment as to preclude the claimant from maintaining either of the aforesaid actions.

Claim considered abandoned, when.