

CHANGES

—IN THE—

General Statutes of 1878,

EFFECTED BY THE

GENERAL LAWS OF 1879 AND 1881,

Arranged with reference to the Chapter and Section Amended.

SAINT PAUL:
WEST PUBLISHING COMPANY.
1883.

THE LOSS OF INSTRUMENTS AND PROCEEDINGS THEREON.

§ 76. (SEC. 68.) **Evidence of contents of lost bill or note—recovery thereon.** In any action founded upon any negotiable promissory note, bill of exchange, bond, or other instrument for the payment of money, or in which such note, bill, bond, or other instrument might be allowed as a set-off in the defence of any action, if it appears on the trial that such note, bill, bond, or other instrument was lost while it belonged to the party claiming the amount due thereon, parol or other evidence of the contents thereof may be given on such trial, and notwithstanding such note, bill, bond, or other instrument was negotiable, such party shall be entitled to receive the amount due thereon, as if such note, bill, bond, or other instrument had been produced. (*As amended 1879, c. 52, § 1.*)

*§ 77. (SEC. 69.) **Same—bond to be given.** But to entitle a party to a recovery on a negotiable promissory note, bill of exchange, bond, or other instrument for the payment of money which has been lost, he shall, before judgment is entered, execute a bond to the adverse party, in a penalty at least double the amount of such note, bill, bond, or other instrument, with at least two sureties, to be approved by the court in which the recovery is had, or the clerk thereof, in case no trial is had, conditioned to indemnify the adverse party, his heirs and personal representatives, against all claims by any other persons on account of such note, bill, or other instrument, and against all costs and expenses by reason of such claims: *provided*, that in case the statute of limitations shall have run against such note, bill, bond, or other instrument, while the action is pending and before a recovery is had thereon, the court in which the action is pending may, in its discretion, reduce the amount of the penalty of such indemnity bond, or permit judgment to be entered without such bond. (*As amended 1879, c. 52, § 1.*)

*§ 77a. **Limitation.** The provisions of this act shall apply to all actions now pending in any of the courts of this state, as well as to actions which may be hereafter commenced. (*Id.* § 2.)

See pages 802, 803.

CHAPTER LXXV.

ACTIONS CONCERNING AND RIGHTS IN REAL PROPERTY.

Add to § 11, page 815:

Provided, that in all causes in which an appeal shall be taken from such judgment to the supreme court, such demand for another trial may be made at any time within six months after written notice of the determination of such appeal, and thereupon the action shall be retired, [retried,] and may be brought to trial by either party. (*As amended 1881, c. 71, § 1.*)

CHAPTER LXXX.

SPECIAL PROCEEDINGS.

WRIT OF MANDAMUS.

§ 13. **Supreme and district court—jurisdiction.** Issues of fact in any such proceeding instituted in the supreme court or in any district court [shall be tried in the district court] of the county in which the defendant may reside, or in which the material facts contained in the relation for the *mandamus* shall be alleged to have taken place, and either party shall be entitled to have any issue of fact in such proceeding tried by a jury, as in an ordinary civil action. The provisions of this act shall govern and be applicable in any such action or proceeding heretofore commenced in the

supreme court in which there has not been a final hearing: *provided, always*, that except as aforesaid nothing in this act contained shall be construed so as to divest the supreme court of jurisdiction to hear and finally determine any and all such suits or proceedings now pending in said court: *and provided, further*, that any such suit or proceeding now pending in the supreme court in which there is any issue of fact which has not been finally heard or determined, the said supreme court shall, on request of the attorney of either the plaintiff or defendant in such suit or proceeding, transmit the record to the district court of the proper county, which district court shall thereupon and thereafter have jurisdiction of the case, and shall proceed to try any issue or issues therein, in the same manner and with the same effect as if such suit or proceeding had been originally commenced in such district court: *and provided, further*, that the district court in which such suit or proceeding is pending may grant a change of venue as in ordinary civil actions. (*As amended* 1881, c. 40, § 1.)

See page 835.

(See *State ex rel. Colter v. Burr*, 8 N. W. Rep. 899, 2 Minn. 245.)

CHAPTER LXXXI.

FORECLOSURE OF MORTGAGES.

FORECLOSURE BY ADVERTISEMENT.

*§ 1. **Foreclosure by advertisement within fifteen years.** Every mortgage of real estate, heretofore or hereafter executed, containing therein a power of sale, upon default being made in any condition of such mortgage, may be foreclosed by advertisement within fifteen years after the maturing of such mortgage or the debt secured thereby, in the cases and in the manner hereinafter specified. (1878, c. 53, § 1, *as amended* 1879, c. 21, § 1.)

See page 841.

CHAPTER LXXXIV.

FORCIBLE ENTRIES AND UNLAWFUL DETAINERS.

Add to § 6, page 854:

And if the officer cannot find in his county said person against whom such complaint is made, and said person has no last and usual place of abode therein, then such summons may be served by leaving a true and certified copy thereof upon the premises described in such complaint, not less than six days before the return-day thereof. Such copy may be left with any person using, occupying, or in charge of said premises, or any part thereof, and such action shall thereupon proceed as though a personal service were made of said summons. (*As amended* 1881, c. 50, § 1.)

(Jurisdiction of municipal court of St. Paul in action of forcible entry and detainer. See *ante*, *§ 82a, p. 96.)

CHAPTER LXXXVI.

APPEALS IN CIVIL ACTIONS.

*§ 23a. **Dismissal of appeal during vacation.** Any judge of the supreme court shall, during vacation, have the same power as the court at term to dismiss any appeal