

GENERAL STATUTES
OF THE
STATE OF MINNESOTA

36

IN FORCE

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COMPLETE IN TWO VOLUMES.

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VOLUME 2, Supplement.—Changes effected in the General Statutes of 1878 by the General Laws of 1879, 1881, 1881 Extra, 1883, 1885, and 1887, arranged by H. J. HORN, Esq., with Annotations by STUART RAPALJE, Esq., and others, and a General Index by the Editorial Staff of the NATIONAL REPORTER SYSTEM.

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SUPPLEMENT, 1879-1888,

WITH

ANNOTATIONS AND GENERAL INDEX TO BOTH VOLUMES.

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CHAPTER 88.

ATTORNEYS AND COUNSELORS.

§§ 1-4. Qualifications—Admission.

See *In re Brown*, 32 Minn. 443, 445, 21 N. W. Rep. 474; *In re Arcander*, 26 Minn. 25, 28, 1 N. W. Rep. 43.

*§ 4a. Admission on certificate granted in another state.

All persons who shall have been admitted to practice in the supreme court of any other state or territory, and who shall have become residents of this state, may be admitted to the bar of all the courts of this state, upon production of their certificates of admission to practice in the courts of such other state or territory. (1883, c. 104, § 1.)

*§ 4b. Admission of non-residents for special cases.

Any person who has been so admitted to practice in any other state or territory, wherein he shall be still residing, and who shall, as an attorney or counselor, attend any term of the supreme court or of any district court of this state, for the purpose of trying or participating in the trial or proceedings of or in any action or special proceeding then and there pending, may, upon motion of any attorney or counselor of such court, and without examination as to his qualifications, be, by an order to be entered upon the minutes of the presiding judge, licensed and admitted to practice in and for the purposes of such action or special proceeding only. (*Id.* § 2.)

§ 9. Authority of attorney.

SUBD. 1. That a stipulation agreeing to the existence of certain facts was made by a former attorney for the defendant, and, of four separate defenses, stipulates away all but one, is not sufficient ground for setting it aside. *Bingham v. Supervisors Winona Co.*, 6 Minn. 136, (Gil. 82.)

Where judgment has been rendered in an action, and execution issued and levied on the property of the defendant, his attorney has no authority to agree with the plaintiff that the property levied on shall be sold at private sale by a person other than the sheriff. *Kronschable v. Knoblauch*, 21 Minn. 56.

SUBD. 2. The attorney of a judgment creditor is, while his authority to enforce and collect the judgment continues, authorized to act for his client in protecting and retaining the judgment against any proceeding in the same action to avoid it, and notice of such proceeding should be served on him. *Sheldon v. Risedorph*, 23 Minn. 518.

TERMINATION. The authority of an attorney implied in his retainer to prosecute or defend an action ceases upon the entry of judgment against his client. *Berthold v. Fox*, 21 Minn. 51.

§ 11. Order to produce authority.

An *ex parte* order requiring a plaintiff's attorney to file evidence of his authority to prosecute the action is void, and need not be regarded. *Farrington v. Wright*, 1 Minn. 241, (Gil. 191.)

*§ 11a. Private consultation with prisoners.

That all public officers, sheriffs, coroners, policemen, or other officers or persons, having in custody any person committed, imprisoned or restrained of his liberty for any alleged cause whatever, shall, except in cases of imminent danger of escape, admit any practicing attorney at law of this state who may have been retained by or in behalf of such person so restrained of his liberty, or whom such person may desire to see or consult, to see such person and consult with him alone and in private, at the jail or other place of custody. (1887, c. 187, § 1.*)

*An act entitled 'An act providing for private consultation between attorneys and prisoners.' Approved February 21, 1887.

***§ 11b. Same—Notice to attorney.**

That all public officers or other persons having in custody any person arrested, committed, imprisoned, or restrained of his liberty for any alleged cause whatever, shall, upon being requested so to do by such person so restrained of his liberty, and before other proceedings shall be had, and as soon as practicable after such request is made, notify any practicing attorney at law residing in the town, city, or place wherein such person is so restrained of his liberty, that such person desires to see and consult with the attorney so notified. (*Id.* § 2.)

***§ 11c. Violation of act—Penalty.**

Any public officer or other person who shall violate any provision of this act shall be deemed guilty of a misdemeanor, and shall be punished by a fine of not less than twenty-five dollars, nor more than one hundred dollars, or by imprisonment in the county jail for a period of not less than thirty days, nor more than ninety days, or by such fine and imprisonment, at the discretion of any court of competent jurisdiction; and such officer or other person shall also forfeit and pay to the person aggrieved one hundred dollars, the same to be recovered in a civil action. (*Id.* § 3.)

§ 14. Notice to appoint another attorney.

Under this section, the adverse party is, until written notice of substitution is given, bound to recognize the former attorney. *McFarland v. Butler*, 11 Minn. 72, (Gil. 42.); *McFarland v. Butler*, 11 Minn. 77, (Gil. 44.)

§ 16. (Sec. 15.) Lien of attorney.

SUBD. 3. A notice of attorney's lien, given under this subdivision, for implied compensation, if it fairly inform the party that a lien is claimed, its nature and character, and upon what it is sought to be enforced, is not defective for failing to state the amount. *Distinguishing Forbush v. Leonard*, 8 Minn. 303, (Gil. 267.) *Crowley v. Le Duc*, 21 Minn. 412.

This section is to be liberally construed in advancement of the remedy. *Id.*

The implied compensation for which an attorney can claim a lien is to be measured by the reasonable value of such services, and not merely the statutory costs allowed a prevailing party under §§ 1, 2, c. 67, Gen. St. *Id.*

SUBD. 4. An attorney has no lien on a judgment unless there is a special agreement for his compensation. *Forbush v. Leonard*, 8 Minn. 303, (Gil. 267.)

An attorney has no lien on a judgment for costs, without notice to the debtor. *Dodd v. Brott*, 1 Minn. 270, (Gil. 206.)

Where an attorney takes an assignment of a judgment on which he has a lien, his lien is merged. *Id.*

The lien of an attorney for his compensation, upon a judgment, is assignable. *Sibley v. County of Pine*, 31 Minn. 201, 17 N. W. Rep. 337.

§ 19. (Sec. 18.) Removal and suspension—Grounds.

SUBD. 1. See *In re Arctander*, 26 Minn. 25, 1 N. W. Rep. 43.

SUBD. 4. The reading to the court, on a motion to change the venue, on the ground of prejudice in the judge, of an affidavit, in the words of the act of 1858, is not *per se* a contempt of court. *Ex parte Curtis*, 8 Minn. 274, (Gil. 188.)

§ 31. (Sec. 30.) Suspension.

See *In re Arctander*, 26 Minn. 25, 28, 1 N. W. Rep. 43; *In re Brown*, 32 Minn. 443, 445, 21 N. W. Rep. 474.