

GENERAL STATUTES
OF THE
STATE OF MINNESOTA

36

IN FORCE

JANUARY 1, 1889.

COMPLETE IN TWO VOLUMES.

VOLUME 1, the General Statutes of 1878, prepared by GEORGE B. YOUNG, edited and published under the authority of chapter 67 of the Laws of 1878, and chapter 67 of the Laws of 1879.

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.

VOL. 2.

SUPPLEMENT, 1879-1888,

WITH

ANNOTATIONS AND GENERAL INDEX TO BOTH VOLUMES.

ST. PAUL:
WEST PUBLISHING CO.
1888.

CHAPTER 89.

ARBITRATORS.

§ 3. Agreement for submission—Form.

An arbitration bond, conditioned that the principal should "well and truly submit, and stand to, and abide by the decision and award of the arbitrators." Washburne v. Lufkin, 4 Minn. 466, (Gil. 362.)

The agreement to submit must be acknowledged before a justice of the peace. An acknowledgment before any other officer will not do. The proper acknowledgment cannot be afterwards waived by the parties, even though that objection is not made on the application to confirm the award, and for judgment on it. A judgment entered on such award is erroneous. Barney v. Flower, 27 Minn. 403, 7 N. W. Rep. 823.

Upon an appeal to this court from a judgment entered upon the award of arbitrators, under the statute, the appellant may make any objection to the validity of the submission, though not raised in the court below; but this court will not hear any matter of error or irregularity in the proceedings after a valid submission,—as that, of three arbitrators, two only acted,—unless the objection was made in the court below. Heglund v. Allen, 30 Minn. 33, 14 N. W. Rep. 57. A description of the demands submitted, as "all demands between the said parties, which either of them has against the other, arising upon a controversy between them upon the claim of said H. for a balance due for building a dwelling-house for said A. in the years 1877-78, and all claims and demands against them, of any nature and kind, growing out of said building," is sufficient. Id.

Informal alteration of submission, see Foust v. Hastings, (Iowa,) 24 N. W. Rep. 22.

§ 8. Time for making award.

The parties to a submission may vary the time for making the award without the formalities prescribed in § 3, *supra*. After the award has been filed, the court may entertain all the further proceedings on it in vacation. Heglund v. Allen, 30 Minn. 33, 14 N. W. Rep. 57.

§ 9. Award—Execution.

That the award is not attested by a subscribing witness does not render it void. Lovell v. Wheaton, 11 Minn. 92, (Gil. 57.)

§ 11. Award—Acceptance, recommitment, etc.

When an award is filed in the district court, the court may recommit it to the arbitrators to make their findings more specific. Johnston v. Paul, 22 Minn. 17.

When an award of arbitrators under the statute is filed with the clerk of the district court, the court has jurisdiction, and it is competent for the parties to waive by stipulation all objections to the award on account of formal errors and irregularities, and authorize the clerk to enter judgment on the award at once, without confirmation by the court. Lovell v. Wheaton, 11 Minn. 92, (Gil. 57.)

§ 12. Vacating award.

An award upon an illegal contract is void. Hall v. Kimmer, (Mich.) 23 N. W. Rep. 96. Mistake avoiding the award. Barrows v. Sweet, (Mass.) 9 N. E. Rep. 665. Improper communication by one party to the arbitrator, see Catlett v. Dougherty, (Ill.) 2 N. E. Rep. 669.

An award will not be set aside on the ground that the arbitrators have not acted on all matters submitted to them, or that they have exceeded their powers, unless the party complaining has been prejudiced thereby. Daniels v. Willis, 7 Minn. 374, (Gil. 295.)

If either party to an arbitrament under the statute has any reason to urge why the award of the arbitrators shall not stand, it is his duty to present such reason to the court when the application to confirm the award, and for judgment on it, is made; and if he fails, without excuse, to present it at that time, he cannot afterwards be heard upon it. Gaines v. Clark, 23 Minn. 64.

§ 14. Return of award at term.

An award of arbitrators need not be filed in term, nor a term intervene between the submission and the return of the award. Lovell v. Wheaton, 11 Minn. 92, (Gil. 57.)

§ 15. Judgment on award.

A judgment rendered on an award has the same conclusive effect, and can, if attacked, be impeached, reviewed, or set aside in the same manner and for the same causes, as other judgments in civil actions. *Johnston v. Paul*, 23 Minn. 46.

CHAPTER 90.

LIENS.

See *North Star Iron-Works Co. v. Strong*, 33 Minn. 1, 21 N. W. Rep. 740; *Coleman v. Ballandi*, 22 Minn. 144; *Milner v. Norris*, 18 Minn. 455, (Gil. 424.)

§ 1. Lien for labor and materials.

Whoever performs labor, or furnishes materials or machinery, for erecting, constructing, altering, or repairing any house, mill, manufactory, or other building, or appurtenances, or for constructing, altering, or repairing any boat, vessel, or other water-craft, by virtue of a contract or agreement with the owner or agent thereof, shall have a lien, to secure the payment of the same, upon such house, mill, manufactory, or other building and appurtenances, and upon such boat, vessel, or other water-craft, together with the right, title, or interest of the person owning such house, mill, manufactory, or other building and appurtenances, on and to the land upon which the same is situated, not exceeding forty acres, and if erected within the limits of any city, town, or village plat, the lot of ground on which said house, mill, manufactory, or other building and appurtenances is erected, not exceeding in extent one acre. Whoever furnishes any labor, skill, or material for constructing, altering, or repairing any line of railway, or for constructing, altering, or repairing any bridge, telegraph, depot, fences, or other structure appertaining to any line of railway, by virtue of any contract with the owner, or with any party authorized by the owner, of such line of railway, or by virtue of any subcontract with any original contractor with such owner, or with such authorized party, shall have a lien, to secure the payment for such labor, skill, and material, upon all such line of railway, and upon all franchises, privileges, and immunities, and upon all bridges, depots, telegraphs, fences, and other structures, and upon all right of way appertaining to such line of railway: *provided*, that whenever any labor is performed, or materials or machinery furnished, as in this chapter provided, by or with the knowledge and consent of a married woman, who is the owner of the property benefited thereby, upon the order of her husband, such knowledge and consent shall be sufficient to establish that such husband acted therein as the agent of the wife. (*As amended* 1874, c. 69, § 1; 1883, c. 43, § 1; 1885, c. 46.)

A lien cannot be claimed for a debt other than for labor or materials, although arising out of a transaction connected with the furnishing of labor and materials. *Brown v. Rodecker*, (Iowa,) 21 N. W. Rep. 160.

The introduction into a shop of additional permanent and stationary machinery for use therein may subject the premises to a lien for the purchase price. *Pond Mach. Tool Co. v. Robinson*, (Minn.) 37 N. W. Rep. 99. Work done upon a building incidental to work upon personal property. *Curnew v. Lee*, (Mass.) 8 N. E. Rep. 890. Lien for making sewer connections. *Beatty v. Parker*, (Mass.) 6 N. E. Rep. 754. For lightning-rods. *Harris v. Schultz*, (Iowa,) 21 N. W. Rep. 22.

A contract to cut from plaintiff's own material, and furnish, all the cut stone required for a building, payments to be made to him from time to time as the work under said contract progresses, is one contract, and the party is entitled to a lien for material furnished thereunder, although the contract may be to furnish distinct items of material,