

MINNESOTA STATUTES 1953 ANNOTATIONS

1475

ATTACHMENT 570.013

and equities, the mortgagee's rights under the mortgage also are free of them. *Henschke v Christian*, 228 M 142, 36 NW(2d) 547.

A constable has only such powers to serve papers as are conferred upon him by statute. *Dahlberg v Young*, 231 M 60, 42 NW(2d) 570.

566.09 JUDGMENT, FINE, EXECUTION

The right to present possession of real property is determined in an unlawful detainer action and such an action is not a bar to subsequent action involving title to the property. *Henschke v Young*, 226 M 339, 32 NW(2d) 854.

566.11 WRIT OF RESTITUTION; EFFECT OF APPEAL

HISTORY. RS 1851 c 87 s 13; 1852 Amend p 17 s 72; PS 1858 c 77 s 13; GS 1866 c 84 s 12; GS 1878 c 84 s 12; Ex1881 c 9 s 2; GS 1894 s 6119; RL 1905 s 4046; 1909 c 496 s 2; GS 1913 s 7666.

Irregularities and errors in a proceeding over which an inferior tribunal may lawfully exercise jurisdiction cannot be reviewed by writ of prohibition, such writ being a preventive and not a corrective remedy. *Heinsch v Kirby*, 222 M 352, 24 NW(2d) 493; *State ex rel v Wright*, 225 M 584, 28 NW(2d) 682.

566.12 APPEAL, STAY

Where the statute provides only for appeals from judgments in unlawful detainer actions, an appeal does not lie from an order denying a motion to set aside the service of summons in such action. *Pushor v Dale*, M, 60 NW(2d) 128.

566.14 NOT TO BE DISMISSED FOR FORM; AMENDMENTS; RETURN

HISTORY. RS 1851 c 87 s 20, 21, 23; 1852 Amend p 17 s 73; PS 1858 c 77 s 20, 21, 23; GS 1866 c 84 s 16, 17, 19; GS 1878 c 84 s 16, 17, 19; GS 1894 s 6123, 6124, 6126; RL 1905 s 4049; GS 1913 s 7669.

COMPENSATORY AND COLLECTION REMEDIES

CHAPTER 570

ATTACHMENT

570.01 WHEN AND IN WHAT CASES ATTACHMENT ALLOWED

Federal tax lien, when superior to prior attachment lien. 35 MLR 580.

An action for breach of promise to marry is in form on contract, but in respect to damages, it is governed by the law applicable to tort actions; and the jury in assessing damages could consider defendant's financial worth, social position, the pecuniary and social advantages plaintiff would have enjoyed if defendant performed his contract, and the mental pain and anguish suffered by the plaintiff. *Kugling v Williamson*, 231 M 135, 42 NW(2d) 534.

A court commissioner may engage in the private practice of law if such practice does not interfere with or conflict with his official duties. OAG March 6, 1950 (128-B).

570.013 PUBLIC EMPLOYEES; ATTACHMENT OF WAGES

HISTORY. 1953 c 110 s 1.

NOTE: See sections 181.04-181.07.

570.093 BOND OF DEFENDANT FOR RELEASE OF PROPERTY

HISTORY. 1953 c 110 s 3.

570.11 SATISFACTION; DISCHARGE, REAL ESTATE

HISTORY. 1861 c 17 s 1, 2; GS 1866 c 66 s 143, 144; 1868 c 68 s 1; GS 1878 c 66 s 160, 161; 1881 c 63 s 1; 1883 c 102 s 1; 1885 c 110; GS 1894 s 5302, 5303; RL 1905 s 4225; GS 1913 s 7855.

570.12 SATISFACTION, DISCHARGE; PERSONAL PROPERTY

HISTORY. 1861 c 17 s 3; GS 1866 c 66 s 146; GS 1878 c 66 s 163; GS 1894 s 5305; RL 1905 s 4226; GS 1913 s 7856.

570.13 WHEN ACTION IS ABANDONED

HISTORY. 1861 c 17 s 1; GS 1866 c 66 s 143; 1868 c 68 s 1; GS 1878 c 66 s 160; 1881 c 63 s 1; 1883 c 102 s 1; 1885 c 110; GS 1894 s 5302; RL 1905 s 4227; GS 1913 s 7857; 1945 c 272 s 1.

570.14 ATTACHMENTS AND RELEASES; RECORD AND INDEX

HISTORY. 1861 c 17 s 1, 3; GS 1866 c 66 s 143, 145; 1868 c 68 s 1; GS 1878 c 66 s 160, 162; 1881 c 63 s 1; 1883 c 102 s 1; 1885 c 110; GS 1894 s 5302, 5304; RL 1905 s 4228; GS 1913 s 7858.

CHAPTER 571

GARNISHMENT

571.41 GARNISHEE SUMMONS; EXCEPTIONS

HISTORY. 1945 c 424 s 1; 1951 c 197 s 1.

Laws 1945, Chapter 424, repeals the old chapter on garnishment and in its place puts into effect a new chapter. The old act required the garnishee to appear in court, while the new act provides for response by written disclosure. By the new act the garnishee is required to retain in his possession property of the defendant in an amount not exceeding twice the amount of the plaintiff's claim. The plaintiff may serve written interrogatories with the garnishee summons. 32 MLR 378.

Discussion of the abandonment of the rule requiring recourse to state law for determination of whether garnishment is merely ancillary and auxiliary or an independent suit and removable. 35 MLR 675.

Removal of cases; right of removal; garnishment as civil action. 35 MLR 675.

Dissolution of the garnishment lien in proceedings based upon a judgment on a note where the judgment debtor seeks a discharge in bankruptcy. 32 MLR 815.

Contingent right of indemnity or contribution as an action for the recovery of money. 36 MLR 543.

Garnishment is a statutory remedy which may not be enlarged or extended by implication to cover cases which are not clearly within both its letter and spirit. Insofar as construction becomes necessary, the Garnishment Act is to be construed in favor of the garnishee to the end that his rights as a neutral or unwilling litigant may be preserved unimpaired. *Henderson v Northwest Airlines*, 231 M 503, 43 NW(2d) 786.