

GENERAL STATUTES  
OF THE  
STATE OF MINNESOTA

36

IN FORCE

JANUARY 1. 1889.

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COMPLETE IN TWO VOLUMES.

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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.

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VOL. 2.

SUPPLEMENT, 1879-1888,

WITH

ANNOTATIONS AND GENERAL INDEX TO BOTH VOLUMES.

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ST. PAUL:  
WEST PUBLISHING CO.  
1888.

## CHAPTER 63.

## SUPREME COURT.

## § 1. General powers.

Except in such special proceedings as the statute has provided for, this court acquires jurisdiction only by writ of error or appeal. Parties cannot confer it by stipulation. *Rathbun v. Moody*, 4 Minn. 364, (Gil. 273.) See, also, *Ames v. Boland*, 1 Minn. 365, (Gil. 268.)

The writ of *certiorari* will issue to an inferior tribunal not acting according to the course of the common law, to bring to this court for review the record, the proceedings in the nature of a record, the rulings upon the admission or rejection of evidence, the instructions given and refused to the jury, the exceptions taken, and so much of the testimony as may be proper to show the bearing of such rulings and instructions and the prejudice to the petitioner. *Minnesota Central Ry. Co. v. M'Namara*, 13 Minn. 508, (Gil. 468.)

The jurisdiction of the supreme court to issue writs of *mandamus* was not affected by c. 18, Laws 1862. *Crowell v. Lambert*, 10 Minn. 369, (Gil. 295.) The act of March 7, 1881, (Laws, 1881, c. 40,) amending c. 80, § 13, *infra*, takes from the supreme court original jurisdiction in *mandamus*, except in cases then pending, and cases where the writ is to be directed to a district court, or a judge thereof in his official capacity. *State v. Burr*, 28 Minn. 40, 8 N. W. Rep. 899.

A proceeding by information, in the nature of *quo warranto*, under this section, is not the action provided for in c. 79, *infra*. In the absence of legislation, or any controlling consideration to the contrary, such proceeding is governed as respects procedure by common-law rules. The *onus probandi* is therefore upon the respondent. It is for the attorney general to determine whether the public good requires him to institute and conduct such proceeding. If he deems it best to proceed, notwithstanding any conduct of the relator, at whose instance he moves, it would be a very extraordinary case, if any, in which his determination would be overruled. *State v. Sharp*, 27 Minn. 33, 6 N. W. Rep. 408. The supreme court has jurisdiction by *quo warranto* to enforce the forfeiture of the charter of a corporation. *State v. Railroad Co.*, 35 Minn. 222, 28 N. W. Rep. 245. As to *quo warranto* as a means of determining a contested election for city alderman, where a city charter provides that the city council shall be the judges of the qualification and election of its members, see *State v. Gates*, 35 Minn. 385, 28 N. W. Rep. 927.

## \*§ 1a. Number of judges.

The supreme court shall consist of one chief justice and four associate justices. (1881, c. 141, § 1.)

## CHAPTER 64.

## DISTRICT COURT.

## TITLE I.

## POWERS AND JURISDICTION.

## § 1. Original and appellate jurisdiction.

The district court is a court of general jurisdiction, without regard to the amount in controversy, unless where the constitution directs actions to be brought elsewhere. *Agin v. Heyward*, 6 Minn. 110, (Gil. 53;) followed, *Cressey v. Gierman*, 7 Minn. 407, (Gil. 316;) *Thayer v. Cole*, 10 Minn. 215, (Gil. 173.)

Justices of the peace have (with the exceptions stated in the statute) exclusive original jurisdiction of all matters where the amount in controversy does not exceed \$100.