

THE *J. Rogers*
GENERAL STATUTES

OF THE

STATE OF MINNESOTA:

REVISED BY COMMISSIONERS APPOINTED UNDER AN ACT APPROVED FEBRUARY 17, 1868, AND
ACTS SUBSEQUENT THERETO, AMENDED BY THE LEGISLATURE,
AND PASSED AT THE SESSION OF 1866.

TO WHICH

THE CONSTITUTION OF THE UNITED STATES, THE ORGANIC ACT, THE
ACT AUTHORIZING A STATE GOVERNMENT, AND THE
CONSTITUTION OF THE STATE OF MINNESOTA,

ARE PREFIXED;

AND A LIST OF ACTS PREVIOUSLY REPEALED,

A GLOSSARY, AND INDEX, ARE ADDED.

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the Laws of 1866.

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in his behalf to the owners of the shares of the parts to which they may be respectively entitled, upon an order from the court.

State may be made a party—summons and complaint, how served.

SEC. 45. The state may be made a party to an action for the sale or partition of real property, in which case the summons and complaint shall be served upon the attorney general, who shall appear on behalf of the state.

Costs of partition, how paid.

SEC. 46. The costs of partition, including fees of referees and other disbursements, shall be paid by the parties respectively entitled to share in the lands divided, in proportion to their respective interests therein, and may be included and specified in the judgment; in that case they are a lien on the several shares, and the judgment may be enforced by execution against the parties separately. Where, however, a litigation arises between some of the parties only, the court may require the expense of such litigation to be paid by the parties thereto, or any of them.

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CHAPTER LXXV.

ACTIONS CONCERNING, AND RIGHTS IN REAL PROPERTY.

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Action to determine adverse claim to real property.

- 2 Min. 153.
- 5 Min. 223.
- 6 Min. 177.
- 8 Min. 403.
- 10 Min. 59.

SECTION 1. An action may be brought by any person in possession, by himself, or his tenant of real property, against any person who claims an estate or interest therein, adverse to him, for the purpose of determining such adverse claim, estate or interest.

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SEC. 2. If the defendant in such action, disclaims in his answer, any interest or estate in the property, or suffers judgment to be taken against him without answer, the plaintiff cannot recover costs. Effect of disclaimer or default.

SEC. 3. In an action for the recovery of dower, before admeasurement, or by a tenant in common, or joint tenant of real property, against a co-tenant, the plaintiff shall show, in addition to the evidence of his right, that the defendant either denied the plaintiff's right, or did some act amounting to such denial. Plaintiff must show denial of his right, when.

SEC. 4. In an action for the recovery of real property, when the plaintiff shows a right to recover, at the time the action was commenced, but it appears that such right has terminated during the pendency of the action, the verdict and judgment shall be according to the fact, and the plaintiff may recover damages for withholding the property. Effect of termination of right during pendency of action. 10 Min. 397.

SEC. 5. Any person against whom a judgment for the recovery of real property is rendered, may within six months after written notice of the judgment, upon the payment of all costs and damages recovered thereby, demand another trial, by notice in writing to the adverse party, or to his attorney in the action, and thereupon the action may be brought to trial by either party. Who may have new trial in action to recover real property. 10 Min. 397.

SEC. 6. The judgment given on a trial to be had under the last section, shall be annexed to the judgment roll of the former trial, and the judgment last given shall be the final determination of the rights of the parties. If a prior judgment has been executed, restitution shall be ordered as the last judgment may determine the rights of the parties, and the same may be enforced by execution. Judgment, how entered in trial under last section. 6 Min. 220. 10 Min. 397.

SEC. 7. Damages for withholding the property recovered, shall not exceed the fair value of the property, exclusive of the use of improvements, made by the defendant for a period not exceeding six years; and when permanent improvements have been made by a defendant or those under whom he claims, holding under color of title adversely to the claims of the plaintiff, in good faith, the value thereof shall be allowed as a set-off against the damages of the plaintiff for the use of the property. Rule of damages—improvements allowed as set-off, when.

SEC. 8. Any person who erects any building, tenement or fences upon land, in good faith, and having color of title, and good reason to believe that the legal title to such lands is or was vested in him, when, in fact, such title was or is not in him, and he has no legal or equitable rights whereby he can enforce a conveyance to him of such title, such person shall be entitled to and may remove such buildings, tenements or fences, from said land, doing no unnecessary damage to the land, and in so doing shall only be liable for the actual damage done the land: *provided*, that no person shall remove a building or fence under the provisions of this section, unless he removes the same within sixty days after the determination of the action or proceeding, respecting the title to the premises on which such building or fence is erected, as contemplated herein, or within sixty days after notice to remove the same, given by the holder of the legal title, unless within said sixty days an action is commenced and prosecuted to try such question of title. Buildings or fences erected in good faith, removable, when.

SEC. 9. The court in which an action is pending for the recovery of real property, may on motion, upon notice by either party, and for cause shown, grant an order allowing to such party the right to enter upon the property and make survey and measurement thereof for the purpose of the action. Court may grant order for survey of property.

SEC. 10. The order shall describe the property, and a copy thereof shall be served on the owner or occupant, and thereupon such party may enter upon the property with necessary surveyors and assistants, and Order, shall contain, what.

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make such survey and measurement, but if any unnecessary injury is done to the property, he is liable therefor.

4 Min. 499.
7 Min. 167.
7 Min. 456.

SEC. 11. A mortgage of real property is not to be deemed a conveyance, so as to enable the owner of the mortgage to recover possession of the real property without a foreclosure.

Purchaser of land sold on execution may recover for injury thereto after sale.

SEC. 12. When real property is sold on execution, the purchaser thereof, or any person who may have succeeded to his interest, may, after his estate becomes absolute, recover damages for injury to the property by the tenant in possession, after the sale, and before possession is delivered under the conveyance.

Action not prejudiced by sale of land while proceedings are pending.

SEC. 13. An action for the recovery of real property, against a person in possession or in receipt of the rents and profits thereof, cannot be prejudiced by an alienation made by such person, either before or after the commencement of the action, but in such case if the defendant has no property sufficient to satisfy the damages recovered for the withholding of possession, such damages may be collected by action against the purchaser.

District court may pass title to land by judgment—effect of judgment when recorded.

SEC. 14. The district court has power to pass the title to real estate by a judgment, without any other act to be done on the part of the defendant, when such appears to be the proper mode to carry its judgments into effect; and such judgment being recorded in the registry of deeds of the county where such real estate is situated, shall, while in force, be as effectual to transfer the same, as the deed of the defendant.

Action by landlord against tenant, equivalent to demand and re-entry—tenant, how restored to possession.
8 Min. 281.

SEC. 15. When in case of a lease of real property, and the failure of the tenant to pay rent, the landlord has a subsisting right to re-enter for such failure, he may bring an action to recover possession of the property, and such action is equivalent to a demand of the rent and a re-entry upon the property; but if at any time before the expiration of six months after possession obtained by the plaintiff on recovery in the action, the lessee or his successor in interest, as to the whole or part of the property, pays to the plaintiff, or brings into court the amount of rent then in arrear, with interest and the costs of the action, and performs the other covenants on the part of the lessee, he may be restored to the possession, and hold the property according to the terms of the original lease.

Filing notice of *lis pendens*.

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SEC. 16. In actions affecting the title to, lien upon, or interest in real property, the plaintiff, at the time of the commencement of the action, or at any time afterward, may file for record in the office of the register of deeds of each county, in which the real property so affected, or some part thereof is situated, a notice of the pendency of the action, containing the names of the parties, the object of the action, and a description of the real property in the county affected thereby; and when the plaintiff amends his complaint by altering the description of the premises affected thereby, or so as to extend his claim against the premises, he shall file a new notice. And the register of deeds shall record all such notices in the same book and in the same manner as mortgages are recorded. From the time of filing such notice, and from such time only, the pendency of the action shall be notice to purchasers or incumbrancers of the rights and equities of the plaintiff to the real property in said notice described.

Effect of.
4 Min. 294.

Plaintiff may serve written notice on what defendants—effect of such notice.

SEC. 17. If in any such action there are defendants against whom no personal claim is made, the plaintiff may serve upon such defendants at the time of the service of the summons on them, a written notice, subscribed by the plaintiff or his attorney, setting forth the general object of the action, a description of the property affected by it, and that no personal claim is made against such defendants. If any such defendant on whom such notice is so served, unreasonably defends the action, he shall pay full costs to the plaintiff.

Person in possession of land, how liable for rent.

SEC. 18. Every person in possession of land, out of which any rent

is due, whether it was originally demised in fee, or for any other estate of freehold, or for any term of years, shall be liable for the amount or proportion of rent due from the land in his possession, although it is only a part of what was originally demised.

SEC. 19. Such rent may be recovered in a civil action, and the deed, demise, or other instrument in writing, if there is any, showing the provisions of the lease, may be used in evidence by either party, to prove the amount due from the defendant.

Such rent recoverable in civil action—evidence in such case.

SEC. 20. Nothing contained in the two preceding sections shall deprive landlords of any other legal remedy for the recovery of their rent, whether secured to them by their leases or provided by law.

Limitation of two preceding sections.

SEC. 21. Estates at will may be determined by either party by three months' notice in writing for that purpose, given to the other party; and when the rent reserved is payable at periods of less than three months, the time of such notice shall be sufficient if it is equal to the interval between the times of payment; and in all cases of neglect or refusal to pay the rent due on a lease at will, fourteen days' notice to quit, given in writing by the landlord to the tenant, is sufficient to determine the lease.

Estates at will, how determined.

SEC. 22. Aliens may take, hold, transmit and convey real estate; and no title to real estate shall be invalid on account of the alienage of any former owner.

Lease—notice to quit.

Rights of aliens as to real estate.

SEC. 23. A person seized of an estate in remainder or reversion, may maintain a civil action for any injury done to the inheritance, notwithstanding an intervening estate for life or years.

Reversioners may sue for injury to inheritance.

SEC. 24. One joint tenant or tenant in common, and his executors or administrators, may maintain an action against his co-tenant, for receiving more than his just proportion of the rents or profits of the estate owned by them as joint tenants or tenants in common.

One joint tenant may maintain action against co-tenant.

SEC. 25. Anything which is injurious to health, or indecent or offensive to the senses, or an obstruction to the free use of property, so as to interfere with the comfortable enjoyment of life or property, is a nuisance, and the subject of an action; such action may be brought by any person whose property is injuriously affected, or whose personal enjoyment is lessened by the nuisance, and by the judgment, the nuisance may be enjoined or abated, as well as damages recovered.

Nuisance defined—action to abate or enjoin.

SEC. 26. If a guardian, tenant by the curtesy, in dower, for life, or years, joint tenant, or tenant in common, of real property, commits waste thereon, any person injured by the waste may bring an action against him therefor, in which action there may be judgment for treble damages, forfeiture of the estate of the party offending, and eviction from the property.

Action for waste—rule of damages.

SEC. 27. Judgment of forfeiture and eviction can only be given in favor of the person entitled to the reversion, against the tenant in possession, when the injury to the estate in reversion is adjudged in the action to be equal to the value of the tenant's estate or unexpired term, or to have been done in malice.

Judgment in such case.

SEC. 28. Whoever cuts down or carries off any wood or underwood, tree or timber, or girdles, or otherwise injures any tree, timber, or shrub, on the land of another person, or in the street or highway in front of any person's house, village or city lot, or cultivated grounds, or on the commons, or public grounds of any city or town, or on the street or highway in front thereof, without lawful authority, is liable to the owner of such land, or to such city or town, for treble the amount of damages which may be assessed therefor, in a civil action in any court having jurisdiction, except as provided in the next section.

Rule of damages in action for willfully cutting trees, &c.

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SEC. 29. If upon trial of such action it appears that the trespass was casual or involuntary, or that the defendant had probable cause to believe

When damages may be mitigated.

that the land on which the trespass was committed was his own, or that of the person in whose service, or by whose direction the act was done, judgment shall be given for only the single damages assessed in the action.

Cutting timber on highways.

SEC. 30. Nothing in the last two sections authorizes the recovery of more than the just value of the timber taken from uncultivated wood land for the repair of a public highway or bridge upon the land, or adjoining it.

Damages for forcible eviction.

SEC. 31. If a person put out of real property in a forcible manner without lawful authority, or being so put out, is afterward kept out by force, recovers damages therefor, judgment may be entered for three times the amount at which the actual damages are assessed.

Rule of damages in case of forcible entry or detention.

SEC. 32. In case of forcible entry or forcible detention, if a person, claiming in good faith under color of title to be rightfully in possession, so put out, or kept out, recovers damages therefor, judgment may be entered in his favor for three times the amount at which the actual damages are assessed.

CHAPTER LXXVI.

ACTIONS RESPECTING CORPORATIONS.

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Chapter embraces all corporations and associations.

SECTION 1. This chapter embraces all corporations, including in such designation, all associations having any corporate rights, whether created by special acts or under general laws.

Foreign corporations may proceed, how. † Min. 504.

SEC. 2. A foreign corporation may prosecute in the courts of this state, in the same manner as corporations created under the laws thereof.

Limitation on actions by foreign corporations.

SEC. 3. A foreign corporation cannot maintain an action in this state upon an obligation or liability arising out of, or in consideration of an act which is contrary to the law or policy of the state, or which is thereby forbidden in respect to corporations or associations therein, whose general business is similar to that of such foreign corporation.

Actions against corporations, how commenced.

SEC. 4. Actions may be commenced against corporations whether created under the laws of this state or any other state or country, except as otherwise expressly provided, in the same manner as other civil actions, and where service of summons is made according to the statute, the