

21079
65

GENERAL STATUTES

OF THE

STATE OF MINNESOTA.

PREPARED BY THE COMMISSIONERS APPOINTED TO REVISE
THE STATUTES OF THE STATE, BY ACT OF THE
LEGISLATURE, PASSED FEBRUARY 17, 1863.

ONE HUNDRED COPIES ORDERED PRINTED.



SAINT PAUL:

FREDERICK DRISCOLL, STATE PRINTER.

(PRESS PRINTING COMPANY.)

1865.

27

D

CHAPTER LXXXIV.

FORCIBLE ENTRIES AND UNLAWFUL DETAINERS.

1 SECTION 1. No person shall hereafter make an entry into
 2 lands or tenements, except in cases where entry is given by C. S. p. 649, Sect. 1.
 3 law; and in such cases, not with strong hands, nor with a Amended. c 77
 4 multitude of people, but only in a peaceable manner; and
 5 if any person from henceforth does to the contrary, he shall
 6 be punished by fine.

1 SECT. 2. Any justice of the peace has authority to in-
 2 quire as hereinafter directed, as well against those who may
 3 make unlawful or forcible entry into lands or tenements, C. S. p. 649, Sect. 2.
 4 and detain the same, as against those who having lawful and
 5 peaceful entry into lands or tenements, unlawfully and forcibly
 6 detain the same; and if it is found upon such inquiry, that an
 7 unlawful or forcible entry has been made, and that said lands
 8 or tenements are unlawfully detained by force and strong
 9 hand, or that the same, after a lawful entry, are sold or
 10 detained unlawfully, such justice shall cause the party com-
 11 plaining to have restitution thereof.

1 SECT. 3. When any complaint is made in writing, to
 2 any justice of the peace, of any such unlawful or forcible C. S. p. 650, Sect. 3.
 3 entry or unlawful detainer, said justice shall issue a sum-
 4 mons, directed to the sheriff or any constable of the county,
 5 commanding him to summon the person against whom such
 6 complaint is made, to appear before the said justice on a
 7 day in such summons named, which shall not be less than
 8 six, nor more than ten days from the day of issuing such
 9 summons.

1 SECT. 4. Such summons shall be served upon the per-
 2 son against whom the same is issued, by delivering a certi- C. S. p. 650, Sect. 4.
 3 fied copy thereof to him, at least three days before the re-
 4 turn day thereof; and the officer serving the same shall make
 5 a special return of the time and manner of serving said sum-
 6 mons.

1 SECT. 5. After the return of said summons, and at the
 2 time and place appointed therein, the said justice shall proceed C. S. p. 650, Sect. 5.
 3 to hear and determine said complaint: *Provided*, That if
 4 either party calls for a trial by jury, the said justice shall
 5 issue a venire, in the same manner, and upon the same

6 terms, as in other cases in justice's court; and such jury
7 shall be sworn as in other cases.

1 SECT. 6. If at the time of making said complaint, it ap-
2 pears that the person against whom said complaint is made,
3 is absent from the county, the justice before whom the
4 same is made, shall issue his summons as hereinbefore pro-
5 vided, and make the same returnable not less than six, nor
6 more than ten days from the time of issuing the same, and
7 such summons may be served by leaving a true and attested
8 copy thereof at the last and usual place of such person's
9 abode, not less than six days before the return day thereof;
10 such copy shall be left with some member of the family, or
11 some person residing at such place, of suitable age and
12 discretion, to whom the contents thereof shall be explain-
13 ed by the officer, and the said officer shall make a special
14 return of the time and manner of serving said summons;
15 and the action shall thereafter proceed as though a personal
16 service were made of such summons.

c77

C. S. p. 660, Sect. 6.

1 SECT. 7. The justice may at his discretion adjourn any
2 trial under this chapter, not exceeding six days; but in all
3 cases mentioned in section eleven of this chapter, when the
4 defendant, his agent or attorney makes oath that he cannot
5 safely proceed to trial, for the want of some material wit-
6 ness, naming him, that he has made due exertion to obtain
7 said witness, and believes if an adjournment is allowed, he
8 will be able to procure the attendance of said witness, or his
9 deposition, in season to produce the same upon such trial,
10 and if such person will give bond, with one or more suffi-
11 cient sureties, conditioned to pay the said complainant for
12 all rent which may accrue during the pendency of such
13 action, and all costs and damages consequent upon such ad-
14 journment, the justice shall adjourn said cause for such rea-
15 sonable time as appears necessary, not exceeding three
16 months.

C. S. p. 660, Sect. 7.

1 SECT. 8. The deposition of any witness whose testimony
2 is considered necessary by either party, may be taken for
3 the same reason, in the same manner, and with the same
4 effect, as is provided by law for taking of depositions to be
5 used in justices' courts.

C. S. p. 661, Sect. 8.

1 SECT. 9. If, upon the trial of any complaint under this
2 chapter, the justice or jury shall find that the defendant or
3 defendants, or either of them, are guilty of the allegations
4 in the complaint, the said justice shall thereupon enter judg-
5 ment for the complainant, to have restitution of the prem-
6 ises, and shall impose such fine, not exceeding one hundred
7 dollars, as he may deem just, and shall tax the costs for the

C. S. p. 661, Sect. 9.
Amended.

8 complainant, and may issue execution in favor of said com-
 9 plainant, for such costs, and shall also award and issue a
 10 writ of restitution; but if the said justice or the jury find
 11 that the person complained of is not guilty, the justice shall
 12 tax the cost against the complainant, and issue execution
 13 therefor.

1 SECT. 10. If the jury cannot agree upon a verdict, the
 2 justice may discharge them, and issue a venire returnable
 3 forthwith, or at some other time agreed upon by the parties
 4 or fixed by the justice, for the purpose of impaneling a new
 5 jury.

C. S. p. 651, Sect. 10.
Amended. c 77

1 SECT. 11. When any person holds over any lands or
 2 tenements, after a sale thereof on an execution, judgment,
 3 or on foreclosure of a mortgage by advertisement, and expi-
 4 ration of the time for redemption, or after the termination
 5 of the time for which they are demised or let to him or to
 6 the person under whom he holds possession, or contrary to
 7 the conditions or covenants of the lease or agreement under
 8 which he holds, or after any rent becomes due, according
 9 to the terms of such lease or agreement, or when any tenant
 10 at will holds over after the determination of any such estate
 11 by a notice to quit, in all such cases the party entitled to
 12 possession may make complaint thereof to any justice of the
 13 peace of the county, and the justice shall proceed to hear,
 14 try and determine the same, in the same manner as in other
 15 cases hereinbefore provided for; but he shall impose no
 16 fine upon such tenants, or persons holding over.

C. S. p. 651, Sect. 12.
Amended.

1 SECT. 12. No restitution shall be made, under the pro-
 2 visions of this chapter, of any lands or tenements of which
 3 the party complained of, or his ancestors, or those under
 4 whom he holds the premises, have been in the quiet posses-
 5 sion for three years next before the entering of the com-
 6 plaint, unless his estate therein is ended; nor shall a writ of
 7 restitution issue in any case for twenty-four hours after judg-
 8 ment, if the party against whom judgment is rendered, or
 9 his attorney, states to the justice that he intends to take an
 10 appeal.

C. S. p. 651, Sect. 13
Amended.

1 SECT. 13. If either party feels aggrieved by the verdict
 2 of the jury, or decision of the justice, he may appeal with-
 3 in ten days, as in other cases tried before justices of the
 4 peace, except that his bond shall be with two or more suf-
 5 ficient sureties to be approved by said justice, conditioned
 6 to pay all costs of such appeal, and abide the order the court
 7 may make therein, and pay all rent and other damages justly
 8 accruing to said complainant during the pendency of such ap-
 9 peal.

C. S. p. 652, Sect. 17.

c77

c. s. p. 652, Sect. 18. 1 SECT. 14. Upon the taking of such appeal, all further
2 proceedings in the case shall be stayed, and the appellate
3 court shall thereafter issue all needful writs and processes,
4 to carry out the provisions of this chapter, according to the
5 true intent and meaning thereof.

c. s. p. 652, Sect. 19. 1 SECT. 15. If a writ of restitution has been issued pre-
2 vious to the taking of an appeal, as provided in this chap-
3 ter, the justice shall forthwith give the appellant a certifi-
4 cate of the allowance of such appeal; and upon the service
5 of such certificate upon the officer having such writ of resti-
6 tution, the said officer shall forthwith cease all further pro-
7 ceedings by virtue of such writ; and if such writ has not
8 been completely executed, the defendant shall remain in
9 possession of the premises, until the appeal is determined.

c. s. p. 652, Sect. 20. 1 SECT. 16. In all cases of appeal under the provisions of
2 this chapter, the appellate court shall not dismiss or quash
3 the proceedings for want of form only, provided they have
4 been conducted substantially according to the provisions of
5 this chapter.

c. s. p. 652, Sect. 21. 1 SECT. 17. Amendments may be allowed by the court at
2 any time before final judgment, upon such terms as to the
3 court appear just, in the same cases and manner, and to the
4 same extent as in civil actions.

c. s. p. 652, Sect. 22. 1 SECT. 18. All matters in excuse, justification or avoid-
2 ance of the allegations in the complaint, shall be set up in
3 the answer.

c. s. p. 652, Sect. 23. 1 SECT. 19. The appellate court has power to compel the
2 justice, by attachment, to make or amend any return which
3 is withheld, or insufficiently or improperly made.

c. s. p. 652, Sect. 24. 1 SECT. 20. The following or equivalent forms shall be
2 used in proceedings under this chapter, to wit :

FORM OF SUMMONS.

3 State of Minnesota, }
4 County of . } ss. The State of Minnesota,
5 To the sheriff or any constable of the county aforesaid :
6 Whereas, , of , hath exhibited unto a
7 justice of the peace, in and for said county aforesaid, a com-
8 plaint against , of , for that the said
9 , on the day of , at
10 (here insert the substance of the complaint with legal certain-
11 ty) ; therefore you are hereby commanded to summon the
12 said , if to be found in the said county, to appear be

13 fore me at , on day of , at of
 14 the clock in the noon, then and there to make an-
 15 swer to, and defend against the complaint aforesaid, and fur-
 16 ther to be dealt with according to law, and make due return
 17 to me of this summons, with your doings thereon.
 18 Dated at , this day of , in
 19 the year one thousand eight hundred and
 20 J. P., justice of the peace.

FORM OF WRIT OF RESTITUTION.

21 State of Minnesota, }
 22 County of , } ss. The State of Minnesota,
 23 To the sheriff or any constable of the county aforesaid :
 24 Whereas, , of , at the court of inquiry
 25 of an unlawful or forcible entry and unlawful detainer, held
 26 at , in the county aforesaid, on the day of
 27 , one thousand eight hundred and , before
 28 , a justice of the peace, in and for the county afore-
 29 said, by the consideration of the court, recovered judgment
 30 against , of , to have restitution of,
 31 (here describe the premises as in the complaint);
 32 therefore, you are hereby commanded, that taking with you
 33 the force of the county, if necessary, you cause the said
 34 to be immediately removed from the aforesaid
 35 premises, and the said to have peaceable restitu-
 36 tion of the same; you are also hereby commanded, that of
 37 the goods and chattels of the said , within said county,
 38 you cause to be levied, and the same being disposed of ac-
 39 cording to law, to be paid to the said , the sum of
 40 , being the cost taxed against said , for the said
 41 , at the court aforesaid, together with twenty-five cents
 42 for this writ, and thereof together with this writ, make due
 43 return within thirty days from the date hereof, according to
 44 law.
 45 Dated at , the day of , one
 46 thousand eight hundred and J. P., justice of the peace.

FORM OF VERDICT.

47 At a court of inquiry held at , on the
 48 day of , one thousand eight hundred and ,
 49 before , a justice of the peace, in and for the county
 50 of , complainant, against , respondent,
 51 the jury find the facts alleged in the said complaint are true,

52 that the said is guilty thereof, and the said
 53 ought to have restitution of the premises therein described
 54 without delay; (or in case the jury do not find the allega-
 55 tion of complaint proved) the jury find that the facts alleged
 56 in the same complaint are not proved, and that the said
 57 is not guilty thereof.

C. D., foreman.
 J. P., justice of the peace.

CHAPTER LXXXV.

ACTIONS BY PERSONS HOLDING CLAIMS ON UNITED STATES LANDS.

c 78 C. S. p. 654, Sect. 1.

1 SECTION 1. Any person settled upon any of the public
 2 lands belonging to the United States, on which settlement
 3 is not expressly prohibited by congress or some depart-
 4 ment of the general government, may maintain an action
 5 for injuries done to the possession thereof, or to recover the
 6 possession thereof.

C. S. p. 654, Sect. 2.

1 SECT. 2. On the trial of any such cause, the posses-
 2 sion, or possessory right of the plaintiff, shall be considered as
 3 extending to the boundaries embraced by the claim of such
 4 plaintiff, so as to enable him to have and maintain either of
 5 the aforesaid actions, without being compelled to prove a
 6 natural inclosure: *Provided*, That such claim shall not ex-
 7 ceed in any case one hundred and sixty acres; and the same
 8 may be located in two different parcels, to suit the conven-
 9 ience of the holder.

C. S. p. 654, Sect. 3.

1 SECT. 3. Every such claim, to entitle the holder to
 2 maintain either of the aforesaid actions, shall be marked out
 3 so that the boundaries thereof may be easily traced, and the
 4 extent of such claim easily known; and no person shall be
 5 entitled to maintain either of said actions for possession of,
 6 or any injury done to any claim unless he is an actual set-
 7 tler, or causes the land to be constantly occupied, and has
 8 improvements made thereon, to the amount of fifty dollars.

C. S. p. 654, Sect. 4.

1 SECT. 4. A neglect to occupy or cultivate such claim,
 2 for the period of six months, shall be considered such an
 3 abandonment as to preclude the claimant from maintaining
 4 either of the aforesaid actions.