

hundred eighty-nine (1889), and all acts and parts of acts relating to the city of Waseca inconsistent with the provisions of this act, are hereby repealed.

SEC. 27. This act shall take effect and be in force from and after its passage.

Approved April 6, 1891.

CHAPTER 53.

[H. F. No. 1081.]

AN ACT TO CONFIRM AND CONTINUE THE PRESENT MUNICIPAL COURT OF THE CITY OF DULUTH, IN THE COUNTY OF ST. LOUIS, IN THE STATE OF MINNESOTA, TO ENLARGE THE JURISDICTION OF SUCH COURT AND TO REGULATE THE PRACTICE AND PROCEDURE THEREOF.

Be it enacted by the Legislature of the State of Minnesota:

SECTION 1. *Court Established—Jurisdiction.*—The municipal court now existing in the city of Duluth, in the county of St. Louis and state of Minnesota, is hereby confirmed, continued and established as a court for the transaction of all judicial business which may lawfully come before it. The said court shall be located and its sessions shall be held in the city of Duluth, at some suitable place to be provided therefor by the common council of said city.

Said court shall be a court of record, and shall have a clerk and a seal, and the jurisdiction of said court shall be coextensive with the limits of the counties of St. Louis, Lake and Cook, except as hereinafter provided.

Civil Jurisdiction.—Said court shall have jurisdiction to hear, try and determine civil actions and proceedings as follows:

First—Of an action arising on contract for the recovery of money only, if the sum claimed does not exceed five hundred (500) dollars.

Second—Of an action for damages for an injury to the person, or to real property, or for taking, detaining or injuring personal property, if the damages claimed, or, in replevin, the value of the property in controversy, does not exceed five hundred (500) dollars.

Third—Of an action for a penalty given by statute not exceeding five hundred (500) dollars.

Fourth—Of an action upon a bond, conditioned for the payment of money, not exceeding five hundred (500) dollars, though the penalty exceeds that sum, the judgment to be given for the sum actually due. When the payments are to be made by installments, an action may be brought for each installment as it becomes due.

Fifth—Of an action upon an official bond, or bond taken in said court, if the penalty does not exceed five hundred (500) dollars.

Sixth—To take and enter judgment on the confession of a defendant, when the amount does not exceed five hundred (500) dollars.

Seventh—To hear and to determine all questions that may arise in actions before it, brought under Chapter eighty-four (84) of the General Statutes of one thousand eight hundred and seventy-eight (1878) and the

amendments thereto, relating to forcible entries and unlawful detainer, whether involving the title to real estate or otherwise.

Eighth — Said court shall also have all the powers and jurisdiction conferred by law upon justices of the peace in this state.

Ninth — *Criminal Jurisdiction.* — To hear all complaints and conduct all examinations and trials in criminal cases arising or triable within the counties of St. Louis, Lake and Cook, and cognizable before a justice of the peace, or arising under the charter, ordinances, laws, regulations or by laws of said city of Duluth.

SEC. 2. *Limit of Jurisdiction.* — The jurisdiction of said court, however, shall not extend:

First — To any civil action involving the title to real estate, save and except an action brought under and pursuant to Chapter eighty-four (84) of the General Statutes of Minnesota, A. D. one thousand eight hundred and seventy-eight (1878), and the amendments to such chapter.

Second — Nor to an action for divorce, nor an action wherein the relief demanded in the complaint is equitable in its nature.

Third — Nor to an action against an executor or administrator as such.

SEC. 3. *Powers.* — Said court shall have full power and authority to issue all process, civil and criminal, necessary or proper to carry into effect the jurisdiction given it by law, and its judgments and other determinations, save as hereinafter provided. And it shall have and possess all the powers usually possessed by courts of record at common law, subject to the modification of the statutes of this state applicable to courts of record. And said court is hereby vested with all powers over cases within its jurisdiction which are possessed by district courts of this state over cases within their jurisdiction; and all laws of a general nature shall apply to said municipal court so far as the same are applicable and not inconsistent with the provisions of this act; *Provided*, that said municipal court shall not have power to issue a writ of *habeas corpus*, *quo warranto*, *ne exeat*, *mandamus*, prohibition or injunction.

SEC. 4. *Judge, How and When Elected.* — There shall be one judge of said municipal court to be called municipal judge. The present judge of said court shall continue in office during the term for which he was elected, and until his successor shall be elected and qualified. The qualified electors of the city of Duluth shall, at the general city election to be holden on the first (1st) Tuesday in February in the year one thousand eight hundred and ninety-two (1892), and on the day of the general city election every third (3d) year thereafter, elect a suitable person, with the qualifications hereinafter mentioned, to the municipal judge, who shall hold his office for a term of three (3) office of years, and until his successor shall be elected and qualified.

There shall be one (1) special judge of said municipal court, whose time and manner of election, term of office, powers and duties and qualifications shall be the same as those of the municipal judge, except as otherwise provided in this act, and his successor shall be elected and vacancies in his office filled in like manner. In case of a press of business requiring the attendance of two (2) judges at one time in said court, at the request of the municipal judge, or, in case of the absence or sickness of the municipal judge, at the request of the mayor or acting mayor of said city, the said special judge shall act as

judge of said court, and when the special judge so acts as judge of said court, the said special judge and the municipal judge may each have and exercise the powers of said court and may sit in the trial and examination of cases at the same time. The special judge so acting as judge of said court shall receive compensation from the city of Duluth at the rate of ten (10) dollars per day or fraction thereof.

This section shall not incapacitate such special judge from acting as attorney in any case in said court, but when such judge is acting as judge of said court he shall take no action in said case, save to adjourn the same. The present special judge of said court shall continue in office during the term for which he was elected, and until his successor is elected and qualified. In case of any vacancy in the office of judge or special judge, the governor of the state of Minnesota shall appoint some qualified person to said office until the next annual election held in said city, when a judge or special judge, as the case may be, shall be elected for a full term.

SEC. 5. *Term of Office.*—The term of office of the judge of said court shall be three (3) years, and until his successor shall have been elected and qualified.

SEC. 6. *Qualifications of Judge.*—The judge of said court shall be a resident of the county of St. Louis, a person learned in the law and duly admitted to practice as an attorney in the courts of this state, and before entering upon the duties of his office he shall take and subscribe an oath as prescribed by the general statute for judicial officers, which oath shall be filed in the office of the city clerk of said city.

SEC. 7. *Powers of Judge.*—The Judge of said court shall have the general powers of judges of courts of record, and may administer oaths, take and certify acknowledgments in all cases, and as a conservator of the peace shall have all power and authority which is or may hereafter be vested in justices of the peace, or any other judicial officer of this state.

He shall see that the criminal laws of this state and the ordinances, laws, regulations and by-laws of said city are observed and executed; and for that purpose shall open said court every morning (Sunday and legal holidays excepted), and proceed to hear and dispose of all cases which shall be brought before him by the police officers of said city, or otherwise, either with or without process, for the violation of the criminal laws of this state committed within the counties of St. Louis, Lake and Cook, and to hear, try and determine in a summary manner all cases of violation of the ordinances, laws, regulations and by-laws of said city. The said judge shall be the chief magistrate of said city.

SEC. 8. *Rules.*—Said judges shall have power to make and prescribe such rules and regulations for the government of said court and the dispatch of the business coming before it as shall by him be deemed proper, and as shall not be inconsistent with the provisions of this act and the laws of this state.

SEC. 9. *Clerk—Appointment—Oath—Bond.*—There shall be a clerk of said municipal court who shall be appointed by the judge of said court, and the judge shall have power to remove said clerk at pleasure. Such clerk, before he enters upon the duties of said office, shall take and subscribe an oath to support the constitution of the United States and the state of Minnesota, and to faithfully perform the duties of his office, and shall execute to the city of Duluth a penal bond in

such sum and with such sureties as the judge of said court shall approve, conditioned that he will account to and pay over to the treasurer of said city on the third (3d) day of every month all fines, penalties, fees and other moneys belonging to or to go to said city which may have come into his hands during the month next preceding, and that he will at all times pay over to all other persons on demand all moneys to which they may be entitled which may have come into his hands by virtue of his office, and that, at the end of his term of office, he will forthwith pay over to the city of Duluth all moneys to which said city shall then be entitled, and to his successor in office all other moneys then remaining in his hands by virtue of his office. Such oath and bond shall be filed in the office of the clerk of said city.

And the city comptroller shall, on or before the tenth (10th) day of each month, examine the books and records of said court, and the report of the said clerk for the month next preceding, and, if, on such examination, he shall find the report correct and that the said clerk shall have paid to the city treasurer all moneys belonging to or to go to the city of Duluth, he shall give to the said clerk a certificate of such examination and payment, which certificate shall be a full release on the part of said city to said clerk for all claims against him by the said city for the month therein stated.

SEC. 10. Deputy Clerk—Appointment—Oath—Bond—Powers.—Such clerk shall have power to appoint, subject to the approval of said municipal judge, one (1) or more deputy clerks, with like powers of the clerk, but acting under the direction of said clerk; and said deputies may be removed from office at any time by the clerk.

SEC. 11. Duties of Clerk.—The clerk shall have the custody and care of all books, papers and records of said court, and of the furniture of the court room, jury rooms and other offices of said court, and shall, from time to time, under the direction of the judge, procure and furnish all the necessary blanks, stationery, record books, court room, jury room and office furniture and furnishings and lights and fuel for the use of the court and the officers thereof, at the expense of the city. He shall be present by himself or deputy, unless absent from sickness or by the consent of the judge, and in case of the absence of both clerk and deputy, the judge may appoint some person temporarily to the position. He may swear all witnesses and jurors, and administer all other oaths and affidavits, and take acknowledgments. He shall have the same power and authority in reference to garnishee disclosures as are by law conferred upon clerks of the district court. He shall keep minutes of all proceedings and enter all judgments, orders and sentences, issue committments as well as all other writs and process, and make up and keep the records of the court under the direction of the judge, and when the judge is not present, adjourn the court from day to day. He shall tax all costs and disbursements allowed in every action, subject to review by the judge, and do all other acts and things necessary or proper to the enforcing and carrying out of the jurisdiction of the court. He shall receive all fines, penalties and fees of every kind accruing to the court or any officer thereof, including police officers, and keep full, accurate and detailed accounts of the same, and shall, on the third (3d) day of every month, deliver over to the city treasurer of the city of Duluth the moneys so received, with detailed accounts thereof, and take his receipt therefor.

Said clerk, as well as the judge of said court, is hereby made a conservator of the peace, and vested with the same authority, discretion

and power to act on receiving complaints and issuing warrants of said court in criminal cases.

SEC. 12. *City and County Attorneys—Duties of.*—The city attorney of the city of Duluth shall have charge of the prosecution of all criminal cases in said court not indictable; and the county attorney of the county of St. Louis shall act in the prosecution of offenders charged with indictable offenses when required by law to prosecute before justices of the peace, or otherwise.

SEC. 13. *Stenographer.*—The judge of said court shall employ and appoint a shorthand writer, to make in shorthand writing a true record or report of the proceedings and evidence taken upon the trials of issues of fact in said court and of all examinations held therein, and, when required by the court or either of the parties to such trial or examination, to transcribe such record and report into longhand. And when, by reason of pressure of business, the services of more than one stenographer are required at one and the same time, such stenographer shall, by direction of the court, procure some competent person to serve as such additional stenographer, and such additional stenographer shall receive as compensation therefor the sum of five (5) dollars for each day or fraction thereof so serving.

SEC. 14. *Oath—Duty.*—Before such reporter shall enter upon the performance of his duties he shall take and subscribe an oath similar to the oaths required of the reporters in the district courts of this state, and file the same with the clerk of this court.

The evidence and proceedings in trials of issues of fact in this court shall be reported in like manner as in the district court of this state.

In the performance of his duties said reporter shall be subject to the orders and directions of the court, and the judge may at any time discharge such reporter and employ and appoint another.

SEC. 15. *Fees.*—The official or additional reporter of said court shall, upon the written request of either of the parties to an action, proceeding or examination, transcribe his record into ordinary writing or print, and the party requesting such transcription shall pay to said reporter or additional reporter five (5) cents per folio of one hundred (100) words for each folio, and three (3) cents per folio of one hundred (100) words for each copy thereof.

SEC. 16. *Terms of Court.*—Said court shall hold regular terms for the transaction of civil business and the trials of civil actions, on the first (1st) and third (3d) Mondays of every month, except the month of August, which terms shall continue from day to day with such adjournments as the court shall deem proper, until the business of such term shall be finished; *Provided*, that the judge of said court may set cases for hearing and trial upon any day in that or any subsequent term. The terms of said court shall open at ten (10) o'clock in the forenoon.

SEC. 17. *Term Calendar.*—The clerk of the court shall, prior to each term of the court, make up a calendar of the causes which will come up for trial, or for any other disposition before the court at such term, adopting such arrangement as the judge may direct.

SEC. 18. *Actions—How Commenced and Conducted.*—All civil actions and proceedings in said court shall be commenced and conducted as prescribed by the statutes regulating the commencement, pleading, practice and procedure in the district courts of this state, as far as the same may be applicable; except, however, as in this act otherwise provided.

SEC. 19. *Times of Service, Pleadings, etc.*—The time within which any act is to be done in this court shall be one-half ($\frac{1}{2}$) of the statutory period prescribed in the district courts of this state; *Provided,*

First—That no such period shall be less than three (3) days.

Second—Notes of issue shall be filed at least four (4) days before the term, and notices of trial shall be served at least four (4) days before the term.

Third—The time within which motions for new trials and appeals may be made or taken shall be the same as in the district court.

Fourth—The practice and proceedings in actions under Chapter eighty-four (84) of the General Statutes of one thousand eight hundred and seventy-eight (1878) shall be the same as in justices' court, except that the summons shall be issued by the clerk; *Provided,* that Monday of each week shall be a special return day for the summons in all actions brought under said chapter.

Fifth—Defaults may be opened and judgments and orders set aside or modified for good cause shown within thirty (30) days after the party affected thereby shall have notice or knowledge of the same.

SEC. 20. *Counterclaims in Excess of Jurisdiction — Equitable Defenses.*—Whenever a counterclaim in excess of five hundred (500) dollars, or where any equitable defense or ground for equitable relief is interposed, or where it appears that the title to real estate is involved, save as is provided in section one (1), subdivision seven (7) of this act, said court shall immediately cause an entry of the fact to be made of record, and cease all further proceedings in the case, and within twenty (20) days thereafter certify and return to the district court of said county of St. Louis a transcript of all entries made in the record relating to the case, together with all process and other papers relating to the suit, and thereupon said district court shall proceed in the cause to final judgment and execution according to law, the same as if said suit had been originally commenced in the district court, and the costs shall abide the event of the suit.

SEC. 21. *Attachment — Replevin — Garnishment.*—Proceedings by attachment, replevin or garnishment in said court shall be conducted as in the district courts of this state; *Provided,* that the bonds required in such proceedings shall be executed with sufficient sureties, and be in attachment not less than two hundred and fifty (250) dollars, or in double the value of the property claimed in replevin, and all bonds required or allowed in such proceedings shall be approved by the judge of said court; *And provided further,* that in garnishment proceedings the affidavit required shall be the same as in justices' courts, and no judgment shall be rendered against a garnishee where the judgment against the defendant is less than ten (10) dollars, exclusive of costs, nor where the indebtedness of the garnishee to the defendant, or the value of the property, money or effects of the defendant in the hands or under the control of the garnishee, as proved, is less than ten (10) dollars.

SEC. 22. *Manner of taking Depositions, Notice, etc.*—Whenever the testimony of any person within or without this state is wanted in any civil action or proceeding in this court, the same may be taken by and before any officer authorized to administer an oath in the state or country in which the testimony of such person may be taken, upon notice to the adverse party of the time and place of taking the same. Such notice shall be in writing, and shall be served as other notices

in civil actions are required to be served, and shall be served so as to allow the adverse party sufficient time, by the usual route of travel, allowing one (1) day for every one hundred (100) miles of distance between the place of service of the notice and the place of taking such deposition, and one (1) day for preparation, exclusive of Sunday; and the examination may be adjourned from day to day, if so stated in the notice; *Provided*, that the judge of this court may, on motion and by order in the cause, designate the time and place of taking such testimony, and the time in which a copy of the order shall be served on the adverse party or his attorney; *Provided further*, that, when the defendant is in default for want of an answer or other defense, such notice or order need not be served upon him.

And in all other respects the taking and use of depositions in said court shall be governed and controlled by sections thirty-seven (37), thirty-eight (38), thirty-nine (39) and forty (40) of Chapter seventy-three (73) of the General Statutes of the state of Minnesota of one thousand eight hundred and seventy-eight (1878).

SEC. 23. *Tenders.*—Tenders of money may be pleaded and made in said court in like manner and with like effect as in the district court.

SEC. 24. *Stay of Execution.*—Executions may be stayed in this court in like manner as in the district court.

SEC. 25. *Confession of Judgment.*—Judgment may be confessed and filed and entered in said court in like manner as in the district court.

SEC. 26. *Second Trial, under Chapter 84, General Statutes 1878.*—Whenever the title to real estate, for the possession of which action is brought under Chapter eighty-four (84) of the General Statutes of one thousand eight hundred and seventy-eight (1878), is involved and determined in this court, the person aggrieved thereby may, after written notice of the judgment entered in this action, apply to the court, and have said cause transferred to the district court for the county of St. Louis, upon complying with the following requisites:

First—He shall deposit with the clerk of this court, for the use of the person entitled thereto, the amount of costs and disbursements included in said judgment.

Second—Within twenty-four (24) hours after notice of such judgment he shall serve upon the adverse party a notice in writing of at least twenty-four (24) hours, stating that he will apply to the court on a day not more than three (3) days after such judgment is entered, naming such day, for an order of the court certifying said cause to the district court for the county of St. Louis for a second trial, and that he will then apply to the court to fix the amount of the bond hereinafter provided for, and that he will then propose the names of (*insert names*) as sureties in such bond.

Third—The amount of the bond having been fixed by the court and the proposed sureties approved, such bond, conditioned that the party aggrieved will pay the costs of such second trial, and abide any order the court may make therein, and pay all rents, issues, profits and damages justly accruing to the adverse party during the pendency of the action, shall be filed with the clerk of this court within three (3) days thereafter; but the provisions of this section shall not apply to actions that are now pending in said court.

SEC. 27. *The Court to Make Order.*—Upon the filing of such bond the court shall make an order directing that the cause shall be certified to the district court for a second trial therein.

SEC. 28. *Cause to be Certified.*—The clerk of this court shall, within ten (10) days after the filing of such order, certify the cause and all papers of record therein to the district court, and thereafter all proceedings in said action shall be had and conducted in said district court.

SEC. 29. *Judgment—Stay.*—Upon filing the notice provided for in section twenty-six (26), subdivision two (2), together with proof of service upon the adverse party, all proceedings in the action shall be stayed in this court until the further order of the court.

SEC. 30. *Process.*—All process shall be tested in the name of the judge, and issued under the seal of the court, and signed by the clerk, and directed for service to any police officer of the city of Duluth, or the sheriff or any constable of the said counties of St. Louis, Lake and Cook, except as herein otherwise provided.

The forms of process may be prescribed by the court by rule or otherwise, and any form so prescribed shall be valid and sufficient, and such form may be changed by the court at any time. In the absence of such prescribed form, the forms of the process in use in the district courts of this state may be changed and adapted to the style of the court, and used at the discretion of the court.

SEC. 31. *Summons and Subpoenas—How Served.*—The summons and subpoenas may be served by any police officer of the city of Duluth, or by any sheriff or constable of the counties of St. Louis, Lake and Cook, or by any other person not a party to the action, and the service shall be made and the summons returned and filed with the clerk of the court with all reasonable diligence.

SEC. 32. *Criminal Proceedings—How Conducted.*—Complaints in criminal cases, where the defendant is not in custody, may be made to the court while in session, or to the judge or clerk when not in session, and shall be made in writing, or be reduced to writing by the judge or clerk and sworn to by the complainant, whether the offense charged be a violation of the criminal laws of the state or of the ordinances, regulations, laws or by-laws of said city. Complaints, warrants and other process in criminal cases may follow substantially the forms heretofore in use by justices of the peace, with such alterations as may be convenient to adapt the same to the style of this court, or may be in such other form as the court may prescribe, sanction or approve.

In cases where alleged offenders shall be in custody and be brought before the court or the clerk without process, the clerk shall enter upon the records of the court a brief statement of the offense with which the offender is charged, which statement shall stand in place of a complaint, unless the court shall direct a formal complaint to be made. The plea of the defendant shall be "guilty" or "not guilty." In case of a failure to plead the clerk shall enter a plea of not guilty, and a former acquittal or conviction for the same offense may be proved under the plea of not guilty with like effect as if formally pleaded.

In the examination of offenders charged with indictable offenses, such minutes of the examination shall be kept as the court may direct, and be properly returned to the court before which the party charged with the offense may be bound to appear.

SEC. 33. *Costs.*—Costs shall be allowed to the prevailing party in actions commenced in this court, as follows:

First — To the plaintiff, upon judgment in his favor, five (5) dollars; to the plaintiff, upon a judgment in his favor, upon a trial upon the merits, where the amount thereof or the value of the personal property recovered, exclusive of disbursements, exceeds fifty (50) dollars, an additional five (5) dollars.

Second — To the defendant, upon dismissal or discontinuance after appearance on part of defendant, five (5) dollars, with all disbursements incurred or paid.

Third — To the defendant, when judgment is rendered in his favor on the merits after trial of an issue of fact, five (5) dollars, and, if the amount of the money or value of property claimed in the complaint exceeds fifty (50) dollars, an additional five (5) dollars.

Fourth — Costs may be allowed on a motion or demurrer, in the discretion of the judge, not exceeding ten (10) dollars, and may be made absolute or directed to abide the event of the action.

Fifth — Save as hereinbefore provided, costs shall be allowed in all cases to the prevailing party, as in the district court of the state.

SEC. 34. *Disbursements.* — Disbursements necessarily made or incurred shall in all cases be allowed to the prevailing party.

SEC. 35. *Taxation of Costs.* — Costs and disbursements shall be taxed and allowed by the clerk of said court forthwith and without notice.

SEC. 36. *Clerks and Officers' Fees.* — The plaintiff in any civil action, upon filing his complaint, shall pay to the clerk of said court the sum of two (2) dollars for the use and benefit of the city of Duluth, which sum shall be in full for all costs and fees of said court and clerk, and the police officers of said city, up to and including the entry of judgment and the certifying of transcript of judgment to the district court, and no rebate shall be allowed to any such person making such payment; *Provided*, that upon filing an affidavit for garnishment or attachment or in replevin and accompanying bond, the plaintiff shall pay to the clerk for the use and benefit of the city of Duluth the sum of one (1) dollar, which shall be credited upon the sum of two (2) dollars required upon filing the complaint; *Provided further*, that no police officer of said city shall be required to serve any paper in any cause until the complaint therein shall have been filed; *And provided further*, that in case of execution issued from and by said court and delivered to any police officer of said city, said police officer shall charge and collect the same fees as are by law allowed to constables for like services, such fees to be paid by said officer to the clerk of the court for the use and benefit of said city of Duluth.

SEC. 37. *Costs and Fees in Criminal Cases.* — In all criminal cases tried and determined in said court in which the defendant shall be convicted, the clerk shall tax as costs of court the following sums, to-wit:

In cases where no warrant is issued and the defendant on being arraigned shall plead guilty, the sum of two (2) dollars; in cases where a warrant shall be issued, and the defendant on being arraigned pleads guilty, the sum of two dollars and fifty cents (\$2.50); in cases where the defendant pleads not guilty, and is tried by the court and found guilty, the sum of five (5) dollars; in cases where the defendant pleads not guilty, and is tried by a jury, ten (10) dollars; said sums, respectively, to be in addition to all costs of witnesses, interpreters, and where a jury trial is had, a jury fee of three (3) dollars.

In cases where the defendant is found guilty and pays the fine and costs adjudged and imposed upon him, the clerk shall immediately pay to said witnesses and interpreter the fees they may be entitled to receive. In cases where the defendant is found not guilty, or shall be found guilty and fail to pay the fine and costs imposed, then the fees of said witnesses and interpreter shall, in all cases where the state is a party, be chargeable to and against the county of St. Louis, and in cases to which the city of Duluth is a party such fees shall be chargeable to and against the city of Duluth. When the fees of any witness or interpreter in such cases are chargeable to and against the county of St. Louis, the clerk of said municipal court shall deliver to each witness or interpreter a certificate signed by said clerk for the number of days and miles traveled, for which he is entitled to receive compensation, and said certificate shall be filed with the county auditor, who shall issue his warrant upon the county treasurer for the amount due, which certificate shall be a sufficient and proper voucher for the issuance of said warrant. When the fees of witnesses or interpreters in said cases shall be chargeable to and against the city of Duluth, the clerk of the said municipal court shall make out and certify an order for such witness or interpreter for the amount due said witness or interpreter, and when so drawn and signed by the clerk the same shall be countersigned by the comptroller, when the same may be presented to the city treasurer, who shall pay the same without any other or further order or action; and said treasurer may hold said order as his voucher for, and to be used in settlement with, the common council.

The fees of all witnesses and interpreters on the part of the state, in any preliminary examination of offenders charged with an indictable offense, or in proceedings under Chapter seventeen (17), General Statutes of one thousand eight hundred and seventy-eight (1878), shall be chargeable to and against the county of St. Louis, and shall be paid in the manner hereinbefore provided for the payment of witnesses and interpreters in criminal actions where to the state is a party, tried and determined in said court; and save and except as herein provided, no costs in criminal actions shall be taxed or charged against the city of Duluth, the county of St. Louis or the state of Minnesota; *Provided*, that the judge of said court may have power in his discretion to order the witness fees of any defendant in any criminal action who shall be acquitted after trial or examination to be paid in the same manner as witnesses for the prosecution.

SEC. 38. *Trial by Jury—Demand and Fee.*—The party desiring a jury in any civil action shall be required to advance and pay to the clerk of said court, on the first (1st) day of the term at which such action is set for trial, a jury fee of three (3) dollars for a jury of twelve, and one dollar and fifty cents (\$1.50) for a jury of six, for the use and benefit of the city of Duluth; and unless such jury is demanded and such fee paid upon the calling of the calendar upon the first (1st) day of the term at which the same is set for trial, it shall be considered to be, and the same shall be, waived, and said action decided by the court.

SEC. 39. *Jury cases—How Set for Trial.*—The trial of jury cases shall take precedence of court cases, and in the calling of the calendar on the first (1st) day of each general term all cases to be tried by jury shall be set for trial commencing with the second (2d) day of such term, and there shall be one (1) or more jury cases set for said second

(2d) and each succeeding day of said term, until all such jury cases are set for trial; and the trial of jury cases shall commence on the second (2d) day of each general term, and be continued and proceeded with from day to day until all such jury cases so set for trial shall have been tried or otherwise disposed of.

SEC. 40. *Trial by Jury.*—Trial by jury in said municipal court shall in all respects be conducted as in the district courts of this state, and all laws of a general nature applicable to jury trials in said district courts shall apply to said municipal court; except, however, as in this act otherwise provided.

SEC. 41. *Jury of Six—When.*—Upon consent of both parties entered upon the record, a jury of six (6) may be ordered by the court.

SEC. 42. *Number of Jurors to be Drawn for each General Term.*—Twenty-four (24) jurors shall be drawn for each general term of said court, and shall be summoned to appear at said court at ten (10) o'clock in the forenoon of the second (2d) day of the term for which they are drawn to attend and serve as jurors for the trial of civil actions in said court, and shall so remain in attendance, unless excused by the court, until the jury cases for such term are concluded and they are finally discharged for the term by order of the court.

SEC. 43. *Jury — Method of Drawing.*—The mayor or acting mayor of the city of Duluth, the city clerk and the judge of said municipal court shall, on the first (1st) Monday in January and July of each year, meet at the office of the city clerk, and from the legal voters of said city select and designate one hundred and forty-four (144) legal voters of said city as jurors for said municipal court, to serve therein when required and drawn during the succeeding six (6) months, and until their successors are selected and certified, and shall thereupon certify said names so selected to the clerk of said municipal court, who shall thereupon write said names upon ballots and place the same in a wheel or box, and on the Tuesday next preceding the beginning of each general term, the clerk of said municipal court shall by lot draw twenty-four (24) ballots therefrom, and the persons named upon the twenty-four (24) ballots as drawn shall be forthwith summoned to attend at said court on the second (2d) day of the term next ensuing and until excused or discharged by the court; *Provided, however,* that the jurors selected and constituting the jury list of said court at the time of the passage of this act shall be and constitute such jury list from which juries shall be drawn as herein provided until the expiration of the six (6) months for which they were selected, and until their successors are selected and certified under the provisions of this act.

Out of the jurors so drawn and summoned juries shall be selected and impaneled when required, in the same manner as in the district courts of this state, but no juror shall be required to attend as such more than two (2) terms in each year. As fast as each series of twenty-four (24) jurors shall have so served, the ballots containing their names shall be placed in an envelope, until the whole one hundred and forty-four (144) shall have been drawn, when they shall all be again returned to the wheel or box to be again drawn as before.

Whenever a jury is required in a criminal case, or whenever, in the opinion of the judge of said court, it is deemed necessary, the court shall have the power to order a special venire to issue to the proper officer, commanding him to summon from the city at large the num-

ber therein named as competent persons to serve as jurors in said court.

SEC. 44. *Fine for Non-attendance.*—If any person duly drawn or summoned to appear in said court as juror neglects to so attend without sufficient excuse, he shall pay a fine not exceeding thirty (30) dollars, which shall be imposed by the court, or be imprisoned until such fine is paid, not exceeding thirty (30) days.

SEC. 45. *Jurors — How Paid.*—Jurors summoned and attending as aforesaid in said municipal court shall be entitled to like compensation as jurors in the district court, and shall be paid out of the treasury of said St. Louis county. The clerk of said municipal court shall deliver to each juror so attending a certificate for the number of days attended and miles traveled, for which he is entitled to receive compensation. Such certificate of the clerk of said municipal court shall be filed with the county auditor, who shall issue his warrant on the treasurer of said county for the amount due, which certificate shall be a proper and sufficient voucher for the issuance of said warrant.

SEC. 46. *Appeals to the Supreme Court.*—Any cause including acts under Chapter eighty-four (84) of the General Statutes of the year one thousand eight hundred and seventy-eight (1878) may be removed from said court to the supreme court of this state in like manner, and upon like proceeding and with like effect, as from the district courts of this state.

SEC. 47. *Transcript.*—No judgment rendered in said court shall attach and become a lien upon real estate until a transcript shall be filed in the district court, as hereinafter provided for, but writs of execution thereon in civil actions may issue upon entry of judgment, against the goods, chattels, rights and credits of the judgment debtor, returnable within thirty (30) days.

Every person in whose favor a judgment is rendered in said municipal court may, on payment of all costs, if any, remaining unpaid, demand and receive from such clerk a transcript of such judgment duly certified, and file the same in the office of the clerk of the district court for the county of St. Louis, who shall file and docket the same, as in the case of transcript of judgments from courts of justices of the peace, and every such judgment shall become a lien upon the real estate of the debtor from the time of filing such transcript, to the same extent as a judgment of said district court, and shall thereafter, so far as relates to the enforcement of the same, be exclusively under the control of said district court and be carried into execution by its process the same as if entered in said district court. The clerk of the municipal court shall not issue such transcript while the writ of execution is in the hands of an officer, and not returned or lost, and shall note on the record that such transcript has been given, and shall not thereafter issue a writ of execution on such judgment, but at any time may issue a new transcript of such judgment in case of loss or mistake in the transcript first given.

SEC. 48. *Police Officers—Process in Criminal Actions.*—The police officers of the said city of Duluth are hereby vested with all the powers of constables under the statutes of this state, as well as at common law. It shall be the duty of the police officers of said city to serve all process or other papers issued by said court in the course of criminal proceedings. All such process shall be delivered to the chief of police, and it shall be his duty to see that all such process is faithfully

served and duly executed. Where process is required to be served outside the city limits, such process shall be served by the sheriff of the county of St. Louis, or by a deputy sheriff or any constable of the counties of St. Louis, Lake or Cook; *Provided*, that the sheriff shall receive similar fees as are by law allowed to constables for like services.

SEC. 49. *Police Officers.*—It shall be the duty of the mayor of said city to see that a sufficient number of police officers are always in attendance upon said court, and in readiness to obey its mandates, serve its process and preserve order under its proceedings; and said mayor shall have the power in his discretion to appoint not exceeding three (3) persons, to be approved by said judge of said municipal court, as policemen for special attendance and duty in said court, irrespective of the general or special rules or legal regulations or enactments relative to the qualifications of policemen; but such person shall receive the same and no greater compensation, unless the council directs greater compensation, than ordinary policemen. And all policemen attending such court may be required to give bonds to said city, in such sum as the judge of said court shall direct, for the faithful performance of their duty, such bonds to be for the use of all persons interested; *Provided, however*, that nothing herein contained shall affect the powers and duties of the general police in said court; and if any fee, gratuity or reward shall be paid to any police officer for any service, he shall forthwith pay the same over to the clerk of said municipal court for the use of said city, and the failure so to do shall be a misdemeanor, punishable by a fine not exceeding one hundred (100) dollars or by imprisonment not exceeding thirty (30) days.

SEC. 50. *Court Confirmed.*—All civil and criminal actions pending and undetermined in the municipal court of said city of Duluth after the passage of this act and all other proceedings in progress at said date in said court shall proceed without interruption in the court designated and established in this act, and the court herein designated shall have the custody and control of all the records of the present municipal court to the same extent as though said actions and proceedings had been instituted, and the said orders and determinations and judgments had been made and entered, by the court herein designated and established.

The enactment of this statute shall save and confirm all rights gained and privileges acquired under and by virtue of the legislation by which the present municipal court of the city of Duluth was created, and under and by virtue of any act by the legislature amendatory of such legislation.

SEC. 51. *Salaries.*—The salary of the judge of said municipal court shall be three thousand (3000) dollars per annum. The salary of the clerk of said municipal court shall be fifteen hundred (1500) dollars per annum, and the salary of the first deputy clerk of said court shall be nine hundred (900) dollars per annum, and that of any other deputy clerks six hundred (600) dollars per annum each. The salary of the official stenographic reporter of said court shall be one thousand (1000) dollars per annum. The city attorney shall receive a salary of six hundred (600) dollars per annum, exclusive of the salary paid said officer by the common council of said city. The salary of each of said officers shall be payable from the city treasury of the city of Duluth in monthly installments, and neither of said officers shall receive any other fee or compensation for his services.

SEC. 52. *Manner of Paying Salary.*—It shall be the duty of the clerk of said court, at the end of each month, to make out and certify an order for each of the officers of said court for the respective amounts due each for the preceding month, and when so drawn and signed by the clerk of said court the same shall be countersigned by the mayor or acting mayor of said city and the comptroller, when the same may be presented to the city treasurer, who shall pay the same out of any funds belonging to said city without any other act necessary to be done in the premises, and the city treasurer may hold said order as his voucher to be used in settlement with the common council.

SEC. 53. *Inconsistent Acts Repealed.*—All acts and parts of acts inconsistent herewith are hereby repealed.

SEC. 54. *When to Take Effect.*—This act shall take effect and be in force from and after its passage.

Approved April 13, 1891.

CHAPTER 54.

[H. F. No. 717.]

AN ACT TO AMEND "AN ACT PROVIDING FOR A SYSTEM OF PUBLIC GROUNDS FOR THE CITY OF DULUTH," APPROVED MARCH 25, A. D. 1889.

Be it enacted by the Legislature of the State of Minnesota:

SECTION 1. That chapter four hundred and one (401) of the Special Laws of the year one thousand eight hundred and eighty-nine (1889), said chapter being an act entitled "An act providing for a system of public grounds for the city of Duluth," approved March 25, 1889, is hereby amended by substituting for sections one (1), two (2), three (3), four (4), five (5), six (6), seven (7), eight (8), nine (9), ten (10), thirteen (13), fourteen (14), fifteen (15), sixteen (16), seventeen (17), eighteen (18), nineteen (19), twenty (20), twenty-one (21), twenty-two (22) and twenty-three (23), respectively, the following, to-wit:

Sec. 1. There is hereby established a department of the government of the city of Duluth, named the board of park commissioners of the city of Duluth, consisting of five (5) commissioners, designated and appointed as follows, to-wit: The mayor of said city, *ex officio*, shall be one of said commissioners and during the month of April in the year eighteen hundred and ninety-one (1891) the said mayor, with the advice and consent of the judges of the district court for the county of St. Louis residing in said city, shall appoint four (4) citizens of said city to be the remaining four (4) commissioners; and annually thereafter during the month of January, in like manner, one member of the board, for the term of four (4) years from the first (1st) day of February following, and until his successor is appointed and duly qualified for his official duty, shall be appointed. And in the event of vacancy at any time existing, the said mayor shall, in like manner, appoint to fill such vacancy for the remainder of the unexpired term of office vacated.