

*Provided, however,* that before said bonds shall be issued the common council shall agree to adopt, by a three-fourths (¾) vote of all its members, a proposal or plan for building such bridge, which proposal or plan shall state the plan and specifications for constructing said bridge, together with an estimate of the total cost thereof; *Provided further,* that before the common council shall have power to issue said bonds, the proposition of issuing the same shall be submitted to the qualified electors of said city at a special election, and must receive in favor thereof the votes of at least a majority of the qualified electors voting at said election. It shall be the duty of the common council to order a special election to vote upon said proposition within sixty (60) days after the adoption by said common council of the proposal or plan for building said bridge. Said election shall be held in the same manner as elections for city officers. Those voting at such election in favor of issuing such bonds shall have written or printed, or partly written and partly printed, on their ballots, "For Issuing Bridge Bonds—Yes," and those voting against the issuing of such bonds shall have written or printed, or partly written and partly printed, on their ballots, "For Issuing Bridge Bonds—No."

SEC. 19. All acts or parts of acts inconsistent with the provisions of this act are hereby repealed.

SEC. 20. This act shall take effect and be in force from and after its passage.

Approved April 23, 1891.

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## CHAPTER 59.

[H. F. No. 252.]

### AN ACT TO ESTABLISH A MUNICIPAL COURT IN THE CITY OF ELY.

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

SECTION 1. There is hereby established in the city of Ely, in the county of St. Louis, a municipal court for the transaction of all business that may lawfully come before it. Said court shall be a court of record and shall have a clerk and a seal and shall have jurisdiction to hear, try and determine civil actions at law where the amount in controversy does not exceed five hundred (500) dollars, excepting causes involving title to real estate. It shall have exclusive jurisdiction to hear all complaints and conduct all examinations and trials in criminal cases arising under the ordinances, rules and by-laws of said city.

It shall have jurisdiction of all actions cognizable before justices of the peace under the general laws of the state of Minnesota. It shall not have jurisdiction of actions for divorce, nor of any action where the relief asked for in the pleadings is purely equitable in its nature. The territorial jurisdiction of said court shall be co-extensive with the present limits of St. Louis, Lake and Cook counties.

SEC. 2. The qualified electors of the city of Ely shall, at the first general city election to be held in and for the city of Ely, and at the general city election every year thereafter, elect a suitable person,

with the qualifications hereinafter mentioned, to the office of judge of said municipal court, to be called "Municipal Judge," who shall hold his office for the term of one (1) year and until his successor shall be elected and qualified. The judge of said court shall be a resident and qualified elector of the city of Ely, a person learned in the law and duly admitted to practice as an attorney in the courts of this state.

Before entering upon the duties of his office he shall subscribe an oath, as prescribed in the general statutes for judicial officers, which oath shall be filed in the office of the city recorder. He shall have the general powers of judges of courts of record, and may administer oaths, take acknowledgments in all cases, and, as conservator of the peace, shall have the powers and authority, where no provision is otherwise made in this act, which is by law vested in district courts of this state, or other judicial officers. In case of a vacancy in the office of municipal judge, the governor of the state of Minnesota shall appoint some qualified person to said office until the next annual election, when a judge shall be elected for the full term of one (1) year.

SEC. 3. There shall be one special judge of said municipal court, whose manner of election, term of office, powers, 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 the municipal judge is a party in interest in any action or proceeding, or in case of his absence or sickness, the said special judge shall act as judge of said court. This section shall not incapacitate such special judge from acting as attorney in any case in said court, but when so acting as attorney he shall take no action as judge in such case, save to adjourn the same.

SEC. 4. If at any time before the trial of any action or hearing or proceeding in said court, the party to the proceedings, or his agent or attorney, shall make affidavit to the effect that he believes that the municipal judge before whom the action is pending is a material witness or near of kin to either party to the action or proceeding, or that from prejudice, bias or other cause he will not be impartial in the trial or hearing of such action or proceeding, thereupon such judge shall take no further action in such case or action or proceeding, except to continue the same, and shall forthwith notify the other judge of the action taken. Such special judge, or municipal judge, as the case may be, shall thereupon proceed with the trial or hearing of such action or proceeding as in other cases. The special judge of said court shall receive compensation from the city at the rate of four (4) dollars per day when so acting.

*Provided*, the special judge shall not in any one (1) month receive for his services as judge a greater sum than the municipal judge would receive if said municipal judge had acted in all cases.

SEC. 5. Said municipal court may have a clerk, who may be appointed or removed at the pleasure of the municipal judge, and by an order entered in the minutes of the court. Before entering upon the duties of his office, such clerk shall take and subscribe an oath to support the constitution of the United States and the state of Minnesota, and to faithfully discharge and perform the duties of his office, and shall execute to the city of Ely a bond in a penal sum and with such sureties as the city council thereof shall direct and approve, conditioned that he will at all times pay over to all persons, on demand,

all moneys to which they may be entitled, which may come to his hands by virtue of his office; and will, also, on the first (1st) day of each secular month, pay over to the treasurer of the city of Ely all fines, penalties, fees and other moneys belonging to or to go to the city which may come to his hands by virtue of his office.

Such oath and bond shall be filed and kept in the office of the treasurer of the said city. The salary of the clerk shall be paid out of the funds of the city of Ely; *Provided*, that the judge, at his own expense, may employ a clerk of court, or his salary may be borne in part by the judge and partly by the city, as the city council may agree. Such clerk shall have power to appoint a deputy clerk, subject to the approval of the judge, such deputy to have like powers as the clerk, and for whose acts the clerk shall be responsible for, as well as his compensation. In case of the non-appointment of a clerk by the judge or city council, said municipal judge shall be the *ex-officio* clerk of said court, and the special judge while acting as judge of said court, as provided in this act, shall be *ex officio* clerk of said municipal court.

SEC. 6. The municipal court shall have full power and authority to issue all processes, civil and criminal, necessary or proper to carry into effect the jurisdiction given it by law, and its judgments and other determinations; and it shall have and possess all powers usually possessed by courts of record or at common law, subject to the modifications by statutes of this state applicable to courts of record, except that it shall not have jurisdiction to issue writs of *habeas corpus*, *quo warranto*, *ne exeat*, *mandamus*, prohibition or injunction. All processes shall be tested in the name of the judge or clerk, except only as otherwise provided in this act, and all forms of process may be described by the court by rule, and such forms may be changed by the court from time to time. In the absence of the prescribed forms, the forms in use either in the courts of record of this state or justices' court, may be used, after being changed or adapted to the style of this court, and used in the discretion of the court; *Provided*, that every summons shall state the amount claimed by the plaintiff in his complaint. Process may be directed for service to any police officer of the city of Ely, or to the sheriff or any constable of the said county or city, and may be served the same as in district court, and service may be made by publication by order of the court as in district courts and in the same cases; *Provided*, that the period of publication shall be only four (4) weeks.

SEC. 7. The said municipal court shall be held in the city of Ely, at some suitable place to be provided therefor by the municipal judge, and at the expense of the city. Its judge shall be the chief magistrate of the city, and shall see that the criminal laws of this state and the ordinances, laws, regulations and by-laws of the city are observed and executed, and for that purpose shall open his court every morning (Sundays and legal holidays excepted) at nine (9) o'clock, and proceed to hear and dispose of all actions and proceedings arising under the penal laws of the state of Minnesota, and hear and dispose, in a summary manner, all cases that shall be brought to him by the police officers of the city, either with or without process, for violation of the ordinances, laws, regulations or by-laws of said city. If no clerk be appointed, said judge shall perform all the duties otherwise imposed upon or to be done by said clerk, and in such case shall execute and file the bond provided for by sec-

tion five (5) herein. The clerk, or if no clerk be appointed, then the judge acting as such clerk, shall have the care and custody of all the books and files, records and papers of said court; he shall be present at all the trials and proceedings in court; he may swear witnesses and jurors and administer oaths, and shall keep the record of the court, all of which when done by the clerk shall be done under the supervision of the judge. In the absence of the judge adjournments may be made by the clerk.

He shall tax all costs and disbursements allowed in any action, and do all things and other acts necessary and proper to the enforcing and carrying out of the jurisdiction of the municipal court. He shall receive and collect 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 account of the same, and on the first secular day of each month pay over to the city treasurer of the city of Ely all the moneys received, with detailed statements of the same, and take the receipt of the treasurer of said village therefor.

SEC. 9. The municipal court shall hold regular terms for the trial of all civil actions on Tuesday of each week, at ten (10) o'clock A. M., which term shall continue from day to day, with such adjournments as the judge may deem proper, until the business of each term shall be finished, and the court may by rule or order appoint such terms to be held oftener or upon other days than the days mentioned above.

All civil actions in this court shall be commenced by service of summons, and shall run in the name of the state of Minnesota. The summons, except when not otherwise provided in this act, must be subscribed by the plaintiff or his attorney, and directed to the defendant, requiring him to answer the complaint and to serve a copy of his answer on the person whose name is subscribed to the summons, and at a place within the state therein specified in which there is a post office, within ten (10) days after the service of such summons, exclusive of the day of service. It shall not be necessary for a party to set forth in a pleading in a civil action in said court the items of an account therein alleged, but he shall deliver to the adverse party, within five (5) days after a demand therefor, in writing, a copy of the account, verified by his own oath or that of his agent or attorney, if within the personal knowledge of such agent or attorney, to the effect that he believes it to be true, or be precluded from giving evidence thereof, and the court or judge may order a further and more particular bill.

The notice to be contained in the summons, the manner of service of summons, pleadings, notices and appurtenances, shall be the same as that required by law in district courts of this state (except as otherwise in this act provided) and the provisions of title one (1), two (2), three (3), five (5), six (6), seven (7), ten (10), thirteen (13), fourteen (14), fifteen (15), sixteen (16), eighteen (18), nineteen (19), twenty (20) and twenty-one (21), of Chapter sixty-six (66), General Statutes of eighteen hundred and seventy-eight (1878), and acts amendatory thereto, so far as the same may be practicable. No officer or other person shall serve or attempt to serve any summons, process or other paper in any civil action in said court, unless the complaint in such action shall have been previously filed with the court or clerk of said court, and in any case wherein such complaint is so filed, the said court or clerk shall, when requested so to do, note or indorse the fact

of such filing upon the back of said summons or process. If the defendant appear within four (4) days after service of summons, the plaintiff or his agent or attorney must serve a copy of the complaint on the defendant or his attorney within four (4) days after notice of such appearance, and the defendant shall have at least five (5) days thereafter to answer the same. All pleadings shall be verified by the party or his agent or attorney, as in courts of justices of the peace. When the answer contains new matter constituting a counterclaim, the plaintiff may, within five (5) days, reply thereto, and such counterclaim may be such as could be interposed in the district or justice courts of this state. Either party may demur to the pleadings of his adversary as in district courts. After the decision of the demurrer the court may, in its discretion, if it appears that the demurrer was interposed in good faith, allow the party demurring to withdraw the same and plead over again at any time within five (5) days from the date of the decision of the demurrer; or, if the demurrer is sustained, may allow the pleading demurred to to be amended on such terms as may be just. When a notice is necessary to be given of a motion to be heard by the court, it must be served five (5) days before the hearing or time appointed; but the judge may, by order to show cause, prescribe a shorter time. All attempts to commence an action in this court shall be followed by the first (1st) publication of summons or service thereof within thirty (30) days. Each party shall, on or before the day of the trial of any issue and for which any cause is noticed, file his pleadings with the court or clerk. Notice of any trial may be given by either party at any time after issue, and at least three (3) days before the term; and the party giving the notice shall furnish the clerk, at least one (1) day before the term, with a note of issue containing the title of the action and the names of the attorneys, if any, and the time when the last pleading was served.

Whenever any such summons or other process or paper in any civil action shall have been delivered to any person for service, he shall, as soon as practicable thereafter, make return to said court or clerk, whether said summons, process or paper shall have been served or not, and, if not served, the reason therefor.

The pleadings in said court shall be the same as in the district courts of this state, subject to such modifications as the court by rule may prescribe.

The court may, for good cause shown, in its discretion and on such terms as may be just and equitable, open any default at the term at which it occurred, or at any time within three (3) months thereafter, or allow any amendment to any pleading at any time during trial of an action, and shall disregard variances between the allegations of the pleading and the evidence, unless satisfied that the adverse party is prejudiced thereby.

Continuances shall be on such terms and subject to the same rules as obtain in the district courts of this state. Said court shall have authority to provide by rule that the plaintiff in any civil action shall by bond, recognizance or deposit of money with the clerk, give security for costs, in such sum as the court may designate, before any summons or process shall issue in the action.

In civil actions the following costs shall be taxed when the party entitled to recover costs appears and prosecutes by an attorney at law duly admitted to practice in the district courts of this state: In

favor of the plaintiff, upon default by defendant, when the amount of judgment is less than fifty (50) dollars, three (3) dollars. To defendant, upon dismissal when the amount claimed in the complaint is less than fifty (50) dollars, three (3) dollars. In actions of replevin upon default by the defendant, when the value of the property is fifty (50) dollars, five (5) dollars. Upon determinations of demurrer, on motion, to prevailing party, such sums as the court may order, not exceeding ten (10) dollars. Upon a trial on the merits costs shall be taxed to the prevailing party in the sum of ten (10) dollars in all cases where the amount in controversy is fifty (50) dollars or exceeds fifty (50) dollars. When the amount in controversy is less than fifty (50) dollars, the prevailing party shall have taxed in his favor, as costs, five (5) dollars.

Costs and disbursements shall be taxed and allowed in the first instance by the clerk or court, upon two (2) days' notice by either party, and inserted in the entry of judgment. The disbursements shall be in detail and verified by the affidavit, which shall be filed. The party objecting to any item of costs shall specify in writing the ground of objection and the same shall be heard and determined upon the objection so made and none other.

SEC. 10. Any creditor desiring to proceed by attachment in said court may, at the time of commencing the action, or thereafter at any time while the action is pending, by himself, his agent or attorney, make and file an affidavit required by law in an application for writ of attachment in justices' court, and cause a bond to be filed, with one or more sureties, to be approved by the judge or clerk, and similar to the bond required in like applications in a justice court, except the limit of the liability therein shall not exceed two hundred and fifty (250) dollars; Upon the filing of the bond and the approval of the same (which the judge or clerk shall endorse thereon), the said clerk or judge shall issue the writ.

The service of the writ and the subsequent proceedings shall, as near as may be, be similar to the service of such writs and proceedings in justice courts; *Provided, however*, that in all cases where such writs contain the substance of a summons and has been served on the defendant, personal judgment may be entered in said action whether property has been actually attached by virtue of such process or not. Writs of attachment may be vacated by the judge upon proper showing, the same as in the district courts of this state.

Whenever, on the return of the writ of attachment, the return of the officer shall show that personal property of the defendant has been attached by virtue thereof and that the defendant cannot be found within the territorial jurisdiction of said court, and the plaintiff, his agent or attorney, shall make and file an affidavit to the effect that the defendant is a resident of this state, but that he resides outside of the territorial jurisdiction of the court (naming the place), thereupon the judge of said court, upon motion of the plaintiff, his agent or attorney, shall make an order reciting the alleged facts and directing that a summons and a copy of such order shall be served on the defendant anywhere within this state; the judge shall then continue such action till the day named in such summons. The summons and copy of the order shall be served on the defendant at least eight (8) days before the return day named in such summons, at any place within the state of Minnesota, by any proper officer or indifferent person.

SEC. 11. When the object of the action is to recover the possession of personal property, the plaintiff, his agent or attorney, shall make and file his complaint in writing, together with an affidavit similar to the affidavit required in justices' courts in like actions, the plaintiff, or some one in his behalf, shall execute a bond, with sureties, to be approved by the judge or clerk, conditioned similar to bonds in justices' courts, and file such bond; and an action may be maintained on such bond as on similar bonds filed in like actions in justices' courts, not exceeding in amount the sum of six hundred (600) dollars. The writ shall be issued by the judge or clerk, and the proceedings thereunder shall be executed (except as to time and forms of trials) in the same manner as in justice courts; but the officer executing the writ shall retain the property taken in custody in his possession for three (3) days before delivery of the same to the plaintiff; and if within that time the defendant, or some one in his behalf, shall execute a bond, with one (1) or more sureties, to be approved by the judge or clerk, conditioned as in like cases in the district court, and shall file such bond, the court shall thereupon issue an order to the officer to deliver such property to the defendant.

SEC. 12. Proceedings against garnishees may be instituted in the same manner as in justices' courts, upon filing with the clerk or judge an affidavit similar in like cases or actions in justice courts, and the summons may be signed by the clerk or judge of said court, or by the plaintiff or his attorney, and may be served by any officer or indifferent person, at any place within the state of Minnesota. It shall require the garnishee to appear before the judge or the clerk of said court in which the action is pending, at a time and place mentioned therein, not less than six (6) days from service thereof, and on one (1) of the days (or Tuesday) that shall be the beginning of a regular term for the trial of civil actions; the notice required to be served upon the defendant in the action shall be signed either by the judge or clerk of the court or by the plaintiff or his attorney in the action, or by the person who served the garnishee, and it shall be served on the defendant at least three (3) days before the time specified in the same for the appearance of the garnishee. The disclosure of the garnishee may be taken and all further proceedings had in the same manner as if the proceedings were in the district court. Whenever on the return day of the summons, in the action in which the garnishee summons has been issued and served and the property of the defendant has thereby been attached in the hands of the garnishee, it shall appear from the return thereon that the defendant cannot be found within the territorial jurisdiction of the court, and the plaintiff, his agent or attorney, shall make and file an affidavit that such defendant is a resident of the state of Minnesota, but resides outside of the territorial jurisdiction of this court, then the judge, upon motion of the plaintiff or his attorney, shall make an order reciting the alleged facts and directing that the summons in said action, together with the notice to the defendant (stating the time and place at which the garnishee disclosure will be made), and a copy of such order shall be served on the defendant anywhere within the state. The judge shall then continue such action and all proceedings therein (including the disclosure of the garnishee) till the return day named in the summons.

SEC. 13. The judge, or the clerk under the direction of the judge, prior to the convening of each term of court, shall make up a calendar of the causes which shall come up for trial, or for any disposition before the court at such term, adopting such arrangement as he may think best; and the court shall direct the order of the trial and other disposition of the causes.

SEC. 14. Jurors for said municipal court shall be provided and drawn in the following manner, to-wit: The city council shall, at its first meetings in the months of April, August and December of each year, select and designate fifty (50) legal voters of said city as jurors of said municipal court, to serve therein when required and drawn, during the succeeding four (4) months, until their successors are certified and designated; and the recorder of said city shall certify the names so drawn to the judge of said court, who shall thereupon write said names upon separate ballots and place the same in a box kept for that purpose, and whenever a jury is demanded by either party in said court, the judge or his clerk shall by lot draw eighteen (18) names from said box and make a list of the same. Each party may thereupon strike out three (3) names; in case of the refusal or neglect of either party to so strike out such names, the judge or clerk shall strike out the same for either or both parties, and upon such being stricken out a venire shall be issued and directed to either the sheriff or constable of the county or city, or to any police officer of the city, directing him to summon the twelve (12) whose names remain upon such list to appear before the court at the time and place named therein, as a juror for the trial of such action; *Provided*, that upon the consent of both parties, entered upon the minutes, a jury of six (6) may be ordered, and in such case twelve (12) names shall be drawn from the box and the list of the same made by the judge or clerk, and the party may strike out three (3) names, and said jury shall be selected, impaneled and summoned as provided in this section. The names of the jurors stricken from the list, as aforesaid, shall be placed in the box again. The same rules that obtain in the district courts of this state as to challenge of jurors, talesmen, oath of jurors and the respective functions of the court and jury, exceptions to the rulings of the court or judge thereof and his charges and refusal to charge, shall apply to this court, and when no other provisions are otherwise made in this act said court is vested with all the powers which are possessed by the district courts in this state, and all laws of a general nature shall be applied to said municipal court as far as the same can be made applicable and not inconsistent with provisions of this act.

Jurors in said municipal court shall be entitled to fifty (50) cents per day on trial of civil action, to be collected and paid in the same manner as in justice courts; but the party demanding a jury trial in civil actions shall be required to advance the jury fee before the jury is sworn; the jury shall be demanded on the call of the calendar, on the first (1st) day of the term, or it shall be considered waived, and the same shall be waived and said action shall be tried by the court. Jurors in criminal cases shall be entitled to like fees as jurors in civil actions, which fees shall attach as part of the costs of the case.

SEC. 15. Section four (4) of Chapter twenty-seven (27) of the General Statutes of eighteen hundred and seventy-eight (1878), relative to the reporter of the supreme court and distribution of the supreme court reports, shall apply to the judge of the said municipal court;



and in all cases an appeal may be taken from said municipal court, either to the district court of St. Louis county or to the supreme court of Minnesota, as the party appealing may elect.

When an appeal is taken to the said district court it shall be for like causes, and like proceedings therefor and therein shall be as now provided for appeals from justices courts.

When the appeal is taken to the supreme court like proceedings shall be taken and had as upon appeal from district court.

SEC. 16. Said municipal court shall have jurisdiction of all actions of forcible entries and unlawful detainers, and may fix return days for such actions on other than the regular return days of said court, and Chapter eighty-four (84) of General Statutes, and acts amendatory thereof relative to forcible entries and unlawful detainers, shall apply to said court.

SEC. 17. No judgment rendered in said court shall attach as a lien upon real estate until a transcript thereof shall be filed in the district court, as provided hereafter; but writs of execution thereon in civil actions may issue against the goods and chattels of the judgment debtor, returnable in thirty (30) days. Judgments may be stayed in this court as in courts of justices of the peace. Every person in whose favor a judgment is rendered in said court for an amount exceeding ten (10) dollars, may, upon paying the fee therefor and all unpaid fees payable in such action, demand, and receive, a transcript of such judgment, duly certified, and may file the same in the office of the clerk of the district court of the said county of St. Louis, who shall file and docket the same as in cases of transcripts of judgment from courts of justices of the peace, and the same shall become a lien on the real estate of the judgment debtor from the time of filing such transcript to the same extent as a judgment of said district court and carried into execution by its processes, as if rendered in said district court. No such transcript shall be issued while a writ of execution is outstanding in the hands of an officer or otherwise, and a statement shall be made in the record of such judgment that such transcript has been issued, giving the date on which it was issued, and thereafter no writ of execution shall be issued out of said municipal court on such judgment; but in case of a loss of the transcript of such judgment first issued, a new transcript of such judgment may be issued.

SEC. 18. Complaints in criminal cases, where the defendant is not in the custody, may be made to the court when in session, or to the judge or clerk when not in session, and shall be in writing, or reduced to writing by the judge or clerk, and sworn to by the complainant, whether the offense be a violation of the criminal laws of the state or of the ordinances, regulations or by-laws of said city; and the clerk, as well as the judge, is hereby vested with the same authority, discretion and power to act in receiving complaints and issuing warrants of said court in criminal cases. The complaints, warrants and all other processes in criminal cases for violation of any law, ordinance or regulation of the city shall run in the name of the city of Ely and shall be directed to the sheriff, or any constable of St. Louis county, or any constable or police officer of the city of Ely, may be substantially in form as in use in courts of justices of the peace, with such alterations as may be proper to adapt them to the style of said municipal court, or may be in such other forms as the court may prescribe, sanction or approve.

In cases where the alleged offenders shall be in custody and brought before the judge or clerk without process, a complaint shall be made, which the judge or clerk shall reduce to writing, and the party be required to plead thereto as to warrants in other cases, and the person or persons so arrested may be proceeded against in the same manner as if the arrest had been made by warrant. In the examination of offenders charged with indictable offenses, the judge or clerk shall keep minutes of the examination and shall make the proper return to the court before which the party charged with the offense may be bound to appear.

SEC. 19. The judge of said court shall receive a salary of one thousand (1,000) dollars per year, and the clerk of said court shall receive such compensation as the city council of said city shall allow, payable from the city treasury in monthly installments. The judge shall not practice as an attorney in said municipal court while holding the office of judge. Neither said judge nor clerk shall receive any fees or other compensation other than his salary for his services, but in all proceedings had in said court the fees collected and charged by the judge and clerk shall be the same as are allowed by law to justices of the peace for similar services in proceedings and trials brought before them.

Police officers of said city are hereby vested with all the powers of constables under the statutes of Minnesota, as well as at common law, and the police officers making service of any process or other doing or duty in respect to causes in said court, shall note and return to the court for collection the fees that are allowed to constables for like services, and all fees, whether so charged by the judge or clerk or police officers, whether due from the county in preliminary examinations, or otherwise, shall be collected by the judge or clerk as costs and paid over and accounted for to the treasurer of the city.

The plaintiff, upon the making and filing his complaint in all civil actions, shall pay to the judge or the clerk of said court one (1) dollar for each one hundred (100) dollars or fraction thereof claimed in his complaint.

SEC. 20. In all criminal actions tried in said court, in which the defendant is convicted, the clerk or judge shall tax as costs of court, and, if not paid, the same shall be entered up in judgment against such persons, the following sums, viz.: In cases where no warrant is issued and defendant upon arraignment pleads guilty, two (2) dollars; in all cases where a warrant has issued and defendant pleads guilty, two (2) and one-half ( $\frac{1}{2}$ ) dollars; in all cases where the defendant pleads not guilty and is tried by the court, three (3) dollars; and in cases where the defendant is tried by a jury, five (5) dollars. Such sums in all cases are to be in addition to all other costs taxed in such cases, and to be turned into the city treasury.

SEC. 21. It shall be the duty of the city council of the city to see that a sufficient number of police officers are always in attendance upon said court and in readiness to obey its mandates and to serve its processes and to preserve order in the proceedings. Police officers of said city shall hereafter receive for their services no other compensation than their salary paid them by the city, except as otherwise provided in this act, and, if any fees shall be paid to any police officer for services, he shall forthwith pay the same over to the judge or clerk of said municipal court for the use of the city, and a failure to do so

shall be a misdemeanor punishable by a fine not exceeding one hundred (100) dollars, or by imprisonment not exceeding thirty (30) days. The city council shall have the power, in its discretion, to appoint one or more persons, approved by the municipal judge, as policemen for special attendance and for duty in said court, irrespective of the general rules or legal regulations or enactments relative to the qualifications of policemen; such persons shall receive the same, but no greater compensation, unless the council direct greater compensation, than ordinary policemen, and all policemen attending court may be required to give bond to said city, in such sums as the council shall direct, for the performance of their duties for the use of all persons interested; *Provided*, that the above shall not affect the powers and duties of the general police in said court.

SEC. 22. In case it shall appear from the pleadings or upon the trial of any civil action that the title to real estate is involved in the action, the municipal court shall not proceed farther with the action, but shall transfer the same to the district court of the county of St. Louis, and the case shall be proceeded with within the court to which it shall be transferred as if originally commenced therein.

SEC. 23. The city attorney of the city of Ely shall have charge of all proceedings arising under the ordinances, rules and by-laws of the city before said municipal court; and the county attorney of the county of St. Louis shall have charge of the prosecution of all offenses against the criminal laws of the state.

SEC. 25. The clerk of the municipal court shall, under the direction of the judge and with the consent of the city council, from time to time, procure and furnish all necessary blanks, stationery, records, court room, jury room and office furniture, light and fuel for the use of the court and officers thereof, at the expense of the city.

SEC. 26. Upon the election and qualification of the municipal judge, all causes and proceedings then pending before any justices of the peace of the former village of Ely shall forthwith by said justice be transferred to said municipal court, with all the papers and records concerning the same, and said municipal court shall take cognizance of such actions and proceedings and proceed therein as if the same were originally commenced in said municipal court; all the dockets, records, files and papers in custody of all justices of the peace of said former village of Ely shall at once be transferred and turned over to said municipal court, which shall have full jurisdiction to finish and complete all proceedings pending before any justice of the peace, and when forced by execution or otherwise, all judgments heretofore rendered by a justice of the peace within the village of Ely, and said judgments shall stand on the same footing as judgments of said municipal court; and after the election and qualification of said municipal judge no justice of the peace within the former village of Ely, or any justice of the peace within the present limits of the city of Ely, shall issue any process nor take any cognizance of any action or proceeding, civil or criminal; but the jurisdiction of said court shall within said city be exclusive in all causes heretofore cognizable before a justice of the peace, except that this clause shall not affect the jurisdiction of any court of record having general jurisdiction such as conferred upon the district court.

SEC. 27. The judge of said court shall have power, with the approval of the city council, to appoint a stenographer for said court,

whose duty it shall be to keep accurate minutes, in shorthand, of all proceedings and causes tried in said court, whenever requested to do so by the judge, and extend the same into longhand, at the request of either party to such action. Said stenographer shall receive pay at the rate of five (5) dollars per day for each day actually employed in said court; the same to be certified and paid out of the city treasury the same as other officers of the city are paid. He shall receive for extending his shorthand minutes into longhand from the party ordering the same at the rate of ten (10) cents per folio for the first copy and five (5) cents per folio for all other copies.

It shall be the duty of the clerk of said court, in all cases where the services of said stenographer are used, to tax in the costs of said action five (5) dollars for the use and benefit of the city of Ely, to be collected in the same manner as other costs are taxed therein and collected.

SEC. 28. This act shall take effect and be in force from and after its passage.

Approved March 3, 1891.

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## CHAPTER 60.

[H. F. No. 889.]

### AN ACT PROVIDING FOR THE CONSTRUCTION AND REPAIR OF SIDEWALKS IN THE CITY OF NORTHFIELD, RICE COUNTY.

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

SECTION 1. Section four (4) of an act of the legislature of Minnesota, entitled "An act relating to the city of Northfield," approved March 1, one thousand eight hundred and eighty-nine (1889), is hereby amended so as to read as follows, to-wit:

"Sec. 4. The common council may cause sidewalks to be constructed, repaired or relaid whenever they deem the public welfare may require it, and shall prescribe the material of which such sidewalks shall consist, and the width and manner of constructing, relaying or repairing the same, and shall cause notice to be given by the street commissioner, or any other person, to the owner of any lot or parcel of land adjoining thereto, to construct, relay or repair so much of said sidewalks as adjoins their several lots or parcels of land at their own expense, respectively. Said notice shall specify the time within which said work shall be done, and shall be of such reasonable length of time as the council may prescribe; said notice may be given personally, or by publication in the official newspaper of the city; *Provided*, that when the owner resides in another place between which and the city of Northfield there is a regular communication by mail, the said service may be made by mail; *And provided*, that when the owner is a non-resident of said city and has an agent for the property residing within the city, service upon such agent shall be sufficient. In case of service by publication, an affidavit of the publisher, printer or foreman shall be sufficient proof of such publication.