

CHAPTER 229.

An act to establish municipal courts in incorporated cities having a population of less than five thousand (5,000) inhabitants.

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

SECTION 1. There is hereby established in each incorporated city in the state of Minnesota, having a population of less than five thousand (5,000) inhabitants, a municipal court, for the transaction of all business which may lawfully come before it.

SEC. 2. Said court shall be a court of record and shall have a clerk and 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. It shall also have exclusive jurisdiction to hear all criminal complaints and conduct all examinations and trials in criminal cases arising or triable within such city heretofore cognizable before a justice of peace or a de facto municipal court, and its jurisdiction shall be co-extensive with the limits of the county in which such city is situated.

It shall not have jurisdictions of actions for divorce, nor of any action when the relief asked for in the complaint is purely equitable in its nature; nor cases involving the title to real estate; nor for false imprisonment, libel, slander, malicious prosecution, criminal conversations or seduction, or upon a promise to marry, nor for an action against an executor or administrator as such, and when in any case pending in said court a counter claim in excess of five hundred (\$500) dollars over plaintiffs' claim, or an equitable defense or ground for equitable relief is interposed, or whenever it shall appear from the pleadings or upon the trial of any cause that the title to real estate is involved, the said court shall immediately cause an entry of the facts to be made of record, and cease all further proceedings in the cause, and order the clerk to certify and return to the district court of the county in which such city is situated a transcript of all entries made in the record relating to the cause, together with all process and papers relating to the cause, and the clerk shall within ten days after being so ordered make such certificate and return; and thereupon such district court shall proceed in the cause to final judgment and execution the same as if said cause had been commenced in said district

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court, as near as may be, and the costs shall abide the event of the action;

Provided, the clerk of said municipal court shall not make such certificate or return, until the costs chargeable by the clerk shall have been paid.

Election of
judge.

SEC. 3. The qualified electors of such city shall at the general city election to be held in the year eighteen hundred and ninety-six and at the general city election every third year thereafter, elect a suitable person to the office of said judge of municipal court, who shall be called "municipal judge," who shall hold his office for a term of three years and until his successor shall be elected and qualified.

Term.

In case of any 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 city election occurring more than thirty days after the vacancy shall have happened, when a judge shall be elected for a full term of three years.

Appointment
of judge.

The governor of the state of Minnesota, shall, immediately after the passage of this act, and the acceptance of the provisions of the same as herein after provided, appoint some suitable person to said office, who shall hold the same until his successor is elected and qualified.

The judge of said municipal court shall be a qualified elector of said city.

Oath—powers.

SEC. 4. Before entering upon the duties of his office the judge shall take and subscribe an oath as prescribed in the general statutes for judicial officers, which oath shall be filed in the office of city recorder of said city.

He shall have the general powers of judges of courts of record, and may administer oaths and take and certify acknowledgments in all cases, and as a conservator of the peace shall have all power and authority which is by law vested in justices of the peace, or any other judicial officer.

Special judges.

In case of sickness or other cause requiring his absence, he may procure any competent and disinterested attorney in the county to act for him.

Such attorney so called in shall take and subscribe the same oath of office and have all the powers possessed by the municipal judge in said matter, or during such time, as he may, by the written order of such municipal judge, be requested so to act.

Prior to the entry of such appointed person upon the discharge of such judicial functions, the judge shall enter a full copy of such order in the records of the court.

Nothing in this act shall be so construed as to disqualify or prevent the municipal judge from practicing as an attorney in any court of this state, except in said municipal court.

SEC. 5. Said municipal court shall have a clerk, who shall be appointed or removed at the pleasure of said judge by an order in the minutes of the court.

The salary or compensation of said clerk shall be such as such judge shall direct and shall be paid by such judge.

Such clerk, before he enters upon the duties of his office, shall take an oath to support the constitution of the United States and of the state of Minnesota, and to faithfully and honestly discharge and perform the duties of his office, and shall execute to such city a penal bond in the sum of one thousand (\$1,000) dollars with two sureties to be approved by the mayor of said city conditioned that he will account to and pay over to said city and county, on the first Monday of every month, all fines penalties, and other moneys belonging to or to go to said city and county, 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 have come into his hands in virtue or by reason of his said office.

Clerk—salary—
oath bond.

Such oath and bond shall be filed in the office of said clerk or recorder of said city.

SEC. 6. The municipal court shall have full power and authority to issue all process, civil and criminal, necessary and proper to carry into effect the jurisdiction given to it by law, and its judgments and other determinations, and it shall have and possess all of the powers usually possessed by courts of record at common law, subject to modifications of the 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 nor injunction.

Powers and
process.

All process shall be attested in the name of the judge, and issued under the seal of the court and signed by the clerk, who shall be styled "clerk of the municipal court," and 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 from time to time in the absence of such prescribed form of process in use in courts of record in this state or by justices of the peace.

Process may be directed for service to any police

officer, marshal or constable of the city, or to the sheriff of the county, or to any or all of them.

Court room.

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SEC. 7. The municipal court shall be held in said city at some suitable place to be provided therefor by the judge, or, if the common council shall so determine, by the city.

Duties of judge.

Its judge shall be the chief magistrate of the city, and shall see that the criminal laws of the state, and the ordinances, laws, regulations and by-laws of said city are observed and executed, and for that purpose shall open his court at any time, Sundays and legal holidays excepted, and proceed to hear and dispose of in a summary manner, all causes which shall be brought before him by the police officers or marshals of the city, or otherwise, either with or without process for violations of the criminal laws of the state, committed within the county in which said city is situated, or of the ordinances, laws, regulations or by-laws of said city.

The clerk of said court shall keep a record of all its proceedings and enter all orders, judgments and sentences, under the supervision of the judge, and issue commitments and executions, as well as all other process.

Records.

SEC. 8. The clerk of said municipal court shall have the custody and care of all the books, papers and records of said court.

He shall be present at all trials, unless absent from sickness or with consent of the judge, and in case of his absence the judge may appoint some person temporarily in his place.

Powers and duties of clerk.

He may swear all witnesses and jurors and administer all oaths and affidavits, and take acknowledgments.

He shall keep minutes of all proceedings and enter all judgments, and make up and keep the records of the court under the direction of the judge.

He shall tax all costs and disbursements allowed in any action, subject to review by the judge, and do all other things and acts necessary and proper to the enforcement and carrying out of the jurisdiction of the court, and when the judge is not present, adjourn the court from day to day.

He shall receive all fines and penalties, and all fees of any kind, accruing to the court or clerk, and keep full, accurate and detailed account of the same; and shall, on the first Monday of every month, deliver and pay over to the treasurer of the city all moneys so received for fines and penalties imposed for violations of the ordinances, regulations and by-laws of said city, with detailed accounts thereof, under oath, and take from such treasurer a duplicate receipt for such pay-

ments, one of which receipts he shall forthwith file in the office of recorder or clerk of such city.

He shall on the same day of each month deliver and pay over to the treasurer of the county all moneys received by him for fines and penalties imposed for violations of the criminal laws of this state, and take from such treasurer a duplicate receipt for such payments, one of which receipts he shall forthwith file with the auditor of such county.

The clerk of said court may, when he deems the same necessary, appoint, with the sanction of the judge, a deputy clerk of said municipal court, for whose acts the said clerk shall be responsible, and said deputy shall be appointed under the hand of said clerk and seal of said court, with the sanction of said judge endorsed upon the back of said appointment; and before any deputy clerk of said court shall enter upon the duties of his office, he shall take and subscribe the same oath prescribed and required to be taken by the clerk of said court, which oath, together with the appointment of such deputy clerk shall be filed in the office of recorder or clerk of said city, and the clerk of such court, or the judge thereof, may at any time remove any deputy appointed under the provisions of this act.

Deputy clerk.

The deputy clerk of said court shall be paid by the clerk.

He may administer oaths, take acknowledgments and perform all duties pertaining to the office of clerk of said municipal court.

SEC. 9. The municipal court shall hold regular terms for the trial of civil actions on the first Tuesday of each month, which term shall continue from day to day, with such adjournments as to the court may seem 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 above mentioned.

Terms.

SEC. 10. All civil actions for the recovery of money only shall be commenced by summons to be issued by the clerk.

Summons—form.

The form of the summons may be as follows:

STATE OF MINNESOTA	} ss.	City of.....
County of.....		Municipal Court.

The State of Minnesota to any police officer of said city, or to the sheriff or any constable of said county.

You are hereby commanded to summon....., if he shall be found within the county of, to be and appear before the municipal court of the city

of at a term thereof to be holden on the..... day of, 18....., at the hour of o'clock in the forenoon, and answer to..... in a civil action whose complaint is on file in said court, and have you then and there this writ.

(L. S.) Witness the Honorable, municipal judge, this day of, 18.....

.....
Clerk of municipal court.

Or the summons may be in any other form which the court may by rule prescribe, and shall be served upon the defendant at least six (6) days before the commencement of the term at which the same is made returnable.

Service.

SEC. 11. The summons in this court shall be served in the same manner as prescribed by statute for service of summons, in district court in all cases or classes of cases whereof this court has jurisdiction, except that in case of service of summons by publication, the period of such publication shall be three (3) consecutive weeks instead of six.

No summons shall be issued until the complaint in the action shall have been filed with the clerk.

Pleadings.

SEC. 12. All pleadings in said municipal court shall be in writing. If the defendant fails to appear at the opening of the court on the day on which the summons is made returnable, judgment may be entered against him for an amount not exceeding that mentioned in the complaint and for costs and disbursements, except that when the action is for unliquidated damages or relief, the plaintiff shall obtain such judgment, only as he shall show himself entitled to by evidence and proof.

If he so appear, he shall then, or at such time as the court may designate, by rule or otherwise, answer the complaint; and if the answer contain a counterclaim or new matter, the plaintiff shall reply thereto forthwith, or at such time as the court may, by rule, or otherwise, designate.

The answer and reply shall be in writing and filed with the clerk, and such pleading shall be verified by the party, his agent or attorney, either as in courts of justices of the peace or in the district courts of this state.

Demurrer.

SEC. 13. Either party may demur to any pleadings of his adversary, as in the district court, except that the demurrer to any pleading shall be filed within the the same time allowed for filing an answer or reply to such pleading.

SEC. 14. All pleadings shall be construed liberally, and technical objections shall be disregarded. Construction.

SEC. 15. The court may for good cause, in its discretion, and upon such terms as it may deem equitable, open any default at the same term at which it may have occurred, or allow an amendment of any pleading at any time, and shall disregard variance between the allegations of a pleading and the evidence, unless satisfied that the adverse party is prejudiced thereby. Default—
amendments.

SEC. 16. Either party shall be entitled to a continuance of a civil action, except actions for forcible entry and unlawful detainer, until the next term of the court following the term at which the summons is made returnable; and further continuance may be granted upon sufficient cause shown and on such terms as may be just. Continuance.

SEC. 17. Said court shall have authority to order that the plaintiff, in any civil action in which a justice of the peace would have jurisdiction, and when the amount is beyond the jurisdiction of a justice of the peace when the plaintiff is a non-resident of this state, shall, by bond, recognizance, or deposit of money with the clerk, give security for the costs in such sums as the court may designate; when the plaintiff in any cause shall neglect or refuse to so give such security when ordered, the court may dismiss such cause at the cost of said plaintiff. Security for
costs.

SEC. 18. Costs shall be allowed in actions determined in said court to the prevailing parties, as follows: Costs.

To the plaintiff upon a judgment in his favor of one hundred dollars or more, or in actions of replevin, when the value of the property is one hundred dollars or more, when no issue of fact or law is joined, five dollars; when an issue is joined, ten dollars.

To the defendant, when the amount claimed in the complaint is one hundred dollars or more, upon discontinuance or dismissal, five dollars; when judgment is rendered in his favor upon the merits, in such case, ten dollars.

SEC. 19. Costs and disbursements shall be taxed and allowed by the clerk, upon two days notice in writing by either party, unless notice is waived by stipulation, and inserted in the entry of judgment. The provisions of the law relating to the taxation of costs and disbursements and appeals therefrom in the district court shall apply to this court. Notice of taxa-
tion.

SEC. 20. Any creditor desiring to proceed by attachment in said court, may, at the time of commencing the the action, or thereafter and while the action is still Attachment—
affidavit—
bond—writ.

pending, by himself, his agent or attorney, make and file with the clerk an affidavit similar to the affidavit required by law in the application for a writ of attachment in a justice court, and also cause to be filed with the clerk a bond with sufficient sureties to be approved by the judge, court commissioner or any justice of the peace of the county in which said city is situated; except that in cases not within the jurisdiction of a justice court the limit of liability thereon shall be mentioned therein as not exceeding the sum of two hundred fifty dollars. The writ of attachment may be in form as follows:

STATE OF MINNESOTA, }
 County of..... } ss. City of.....
 } Municipal Court.

The State of Minnesota to any police officer in the said city of.....or to the sheriff or any constable of said county:

You are hereby commanded to attach the goods, chattels, moneys, effects and credits of..... or so much thereof as shall be sufficient to satisfy the sum of.....with interest and costs of suit, in whoever's hands or possession the same may be found in said county, and so provided that the same may be subject to further proceedings as the law requires; and make due return of his writ.

Witness the Honorable.....judge of said court, this.....day of.....

 Clerk.

Or the writ may be in any other form that the court may prescribe by rule or otherwise.

In all other respects, save as in this act otherwise provided, the service of the writ and other proceedings thereon shall be similar, as near as may be, to the service of such writ and proceedings in the justice court.

Vacating attachment.

SEC. 21. The defendant may at any time before the time for answering expires, or at any time thereafter, when he has answered, before the trial, apply to the court, on five days' notice, to vacate the writ of attachment.

If the motion is made upon affidavits on the part of the defendants, but not otherwise, the plaintiff may oppose the same with counter affidavits.

Claim and delivery.

SEC. 22. The plaintiff in an action to recover possession of personal property may, at the time of the issuing of the summons, or at any time before answering, claim the immediate delivery of such property.

The plaintiff, his agent or attorney, shall make and

file an affidavit, similar to the affidavit required in the justice court in like case.

The plaintiff, or some person in his behalf, shall execute a bond with sufficient sureties, to be approved by the judge, court commissioner or a justice of the peace of the county in which said city is situated, conditioned, similar to the bond required in such case in the justice court, as near as may be, and file such bond, and an action may be maintained on such bond as upon similar bonds filed in like actions in justice courts.

Bond-writ.

The clerk shall thereupon issue the writ, which may be in form as follows:

STATE OF MINNESOTA, }
County of..... } ss. City of
Municipal Court.

The state of Minnesota to any police officer of said city of or the sheriff or any constable of said county.

Whereas, complains that has become possessed of and unjustly detains from the following described goods and chattels, that is to say: (Particularly describing the articles and value.) Therefore, you are hereby commanded to cause the said goods and chattels to be replevied without delay, and deliver the same to the said and return this writ to the court within days, together with the return of your proceedings thereon.

Witness, the Honorable municipal judge, this day of A. D. 18.....

(L. S.) Clerk of the municipal court.

Or the writ may be in any other form that the court may prescribe, by rule or otherwise.

SEC. 23. The writ mentioned in the preceding section shall be served and all proceedings thereunder had, as near as may be consistent with the practice of this court, in the same manner as in the proceedings in replevin in the justice court; but the times of trial and the forms of pleadings shall be the same as in other actions in this court.

Service.

The officer executing the writ shall retain the property taken under it in his custody for three days before delivering the same to plaintiff; and if within that time the defendant, or some one in his behalf, shall execute to the plaintiff a sufficient bond in amount equal to the bond filed by the plaintiff, with sufficient sureties, to be approved by the judge, court commissioner or a

justice of the peace of the county in which said city is situated, conditioned as in like cases in the district court, and file such bond, the clerk shall thereupon issue an order to the officer to deliver such property to the defendant.

Sureties—ex-
ception to.

SEC. 24. The defendant may except to the sufficiency of the plaintiff's sureties within the same time and in the same manner as in proceedings of claim and delivery of personal property in district court, and when defendant so excepts, the same proceedings shall be had as in like actions in the district court, except that the justification of sureties be had before the judge of said municipal court or the court commissioner or a justice of the peace of the county in which such city is situated.

The qualifications of sureties shall be the same as required in like actions in the district court.

Calendar.

SEC. 25. The clerk of said court shall, prior to each term of the court, 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 the judge may direct; and the court shall direct the order of trial, and other disposition of causes.

Jury trial.

SEC. 26. In all actions where either party demands a trial by jury, such jury shall be drawn and empanelled in the same manner as in justice courts, and the laws of this state relative to trial by jury in justice courts; shall apply to this court; *provided* that the judge of said court may direct the chief of police or any police officer or marshal of said city to perform the duties prescribed to be performed by the sheriff or constable in justice courts.

Depositions.

SEC. 27. Depositions may be taken and read in evidence in said court as in justice courts, and all laws relative to depositions in justice courts shall apply to said municipal court.

Forcible entry
—Detainer.

SEC. 28. Title eighteen of chapter sixty-six of the general statutes of eighteen hundred seventy-eight, and title nineteen of the same chapter, shall apply to said court; and said court shall have jurisdiction of actions of forcible entry and unlawful detainer, and may fix return days for such actions other than the regular term days of said court; and chapter eighty-four of the general statutes of eighteen hundred and seventy-eight, shall apply to said court, and the practice shall be the same in such cases, as near as may be, to similar proceedings in justice courts.

Garnishment.

SEC. 29. Proceedings against garnishee may be instituted in the same manner as in justice courts, but the summons may be served either by an officer authorized by this act to serve process, or by any person not a

party to the action, at any place within the state of Minnesota; and the summons may be made returnable at any term of said court which may be named therein; and the notice required to be served on the defendant may be signed by either the clerk of said court, or the person serving the garnishee summons, or the plaintiff or his attorney.

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, except that the examination of the garnishee shall be before the judge of said court or a referee by him appointed.

SEC. 30. No judgment rendered in said municipal court shall attach as a lien upon real estate until a transcript thereof shall be filed in the district court, as hereinafter provided; but writs of execution thereon may issue against the goods and chattels of the judgment debtor, returnable within thirty days, as in justice courts, the provisions for renewals of executions in district court shall apply to this court, except that such renewal shall extend the life of the execution for only thirty days from the date of such renewal, and except that no renewal of such execution shall be made by the clerk until the fee of twenty-five cents therefor shall have been paid.

Every person in whose favor a judgment is rendered in said municipal court for an amount exceeding five dollars besides costs may, upon paying the fee therefor, demand and shall receive from such clerk a transcript of the docket entries of such judgment, duly certified, and may file the same in the office of the clerk of the district court in and for the county in which said city is situated, who shall file and docket the same, as in the case of transcripts 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 transcripts to the same extent as a judgment of said district court, and shall thereafter be exclusively under the control of said district court and carried into execution by its process, as if said judgment had been rendered in said district court, the clerk of said municipal court shall not issue such transcript while a writ of execution is outstanding, in the hands of an officer, or otherwise, and shall note on the record of said judgment the fact that such transcript has been given; and shall not, thereafter, issue any writ of execution on the same judgment, but may, at any time after the first transcript is issued, give to any party applying therefor, upon such party paying the clerk's fee therefor, a new

Transcripts of
judgment.

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transcript, and the clerk shall note the record of each transcript given upon such judgment.

Criminal com-
plaints and
trials.

SEC. 31. Complaints in criminal cases, where the defendant is not in custody, may be made to the judge or clerk, in writing, or 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 this state, or of the ordinances, regulations or by-laws of said city; and the clerk shall issue a warrant only upon the order of the judge indorsed upon the complaint, and complaints, warrants and all other process in criminal cases may follow substantially the same forms heretofore in use by justices of the peace, with such alterations as may be convenient to adapt the same to the style of said municipal court, or may be in such other form as the court may prescribe, sanction or approve.

In all cases where alleged offenders shall be in custody and brought before the court without process the clerk shall enter upon the records of the court a brief statement of the offense with which the defendant is charged, which 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 as well as if formally pleaded.

In the examination of offenders charged with indictable offenses the clerk shall keep such minutes of the examinations as the court shall direct and shall make the proper return to the court before which the party charged with the offense may be bound to appear.

SEC. 32. In all proceedings had in said municipal court the following fees shall be charged and collected by the judge or clerk as and for the compensation of the judge, and said fees may be taxed in all cases where applicable, as follows:

For summons, warrant or subpoena, thirty-five (35) cents.

For a venire for a jury, the same fees as in a justice court.

For a warrant in a criminal case, thirty-five (35) cents.

Taking a recognizance, thirty-five (35) cents.

Administering an oath, twenty-five (25) cents.

Certifying the same when administered out of court, twenty-five (25) cents.

For a writ of attachment, thirty-five (35) cents.

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Fees.

For hearing and deciding every motion for a new trial, every demurrer, and every motion to open a default, one (\$1) dollar.

Appeal from taxation of costs, one (\$1) dollar.

Entering a judgment, thirty-five (35) cents.

Every adjournment, twenty-five (25) cents.

Every bond, recognizance or security directed by law to be taken by judge of court, thirty-five (35) cents.

Taking an examination, deposition or confession, or entering any cause in docket, per folio, fifteen (15) cents.

For copy of any paper, proceeding or examination in any case, when demanded, per folio, fifteen (15) cents.

Entering a satisfaction of judgment, twenty-five (25) cents.

Issuing a commission to take testimony fifty (50) cents.

Entering any order or exception thereto ten (10) cents.

Entering amicable suit without process, thirty-five (35) cents.

For transcript of judgment, thirty-five (35) cents.

Opening a judgment for rehearing, thirty-five (35) cents:

Filing every paper required to be filed five (5) cents.

Issuing notice to take deposition, thirty-five (35) cents.

Taking recognizance, certifying oath or affidavit, and making return to district court, per folio, fifteen (15) cents.

For search warrant, thirty-five (35) cents.

For commitment to jail, thirty-five (35) cents.

For an order to bring up prisoner, thirty-five (35) cents.

For an order to discharge prisoner issued to jailer, thirty-five (35) cents.

Discharging a prisoner, after hearing a motion to discharge, twenty-five (25) cents.

For an execution, thirty-five (35) cents.

For every other writ not herein enumerated, thirty-five (35) cents.

For every affidavit or other paper drawn by the judge or clerk, for which no other allowance is made by law, per folio, fifteen (15) cents.

Taxing costs, twenty-five (25) cents.

For marrying and making return thereof, three (\$3) dollars, and such other sum as may be allowed by the parties making the application.

Holding an inquisition in cases of forcible entry and unlawful detainer, in addition to other fees, one (\$1) dollar.

Taking and certifying the acknowledgment of a deed, for each grantor named therein, twenty-five (25) cents.

For traveling to perform any duty, when not otherwise provided for and such travel is necessary, per mile, going and returning, ten (10) cents.

Payment necessary.

SEC. 33. The clerk shall not be required to enter any judgment in any cause, nor perform any services required of him in any cause, as such clerk, after the entry of judgment therein, until the fees therefor shall have been paid.

Judge to hold no other office.

SEC. 34. The judge of said municipal court shall hold no other office under said city, and no law partner of said judge shall practice before said court.

Duties of city and county attorneys.

SEC. 35. The city attorney of said city shall have charge of the prosecution of all criminal cases before said court wherein the defendant is charged with the violation of the city charter, or any ordinance or by-law of the city, and the county attorney of the county in which said city is situated shall act in the prosecution or examination of offenders charged with other offenses, when required by law to prosecute in like cases before a justice of the peace.

Costs and fees in criminal cases.

SEC. 36. In all criminal cases tried in said court and in examination of the persons therein charged with crime, the clerk shall tax costs and fees as hereinbefore provided in this act; and when said court has final jurisdiction, and the defendant is convicted the clerk shall tax the said costs as part of the costs against the defendant and include the same in the judgment to be entered against him.

To be paid by county—when.

SEC. 37. In all examinations of persons charged with crime under the laws of this state, and in all trials of criminal cases under such laws, when defendant is acquitted and when he is convicted and does not pay his fine and costs within ninety days after the final determination of said cause, the clerk shall make out an itemized bill of the costs accruing to the municipal court in such case or examination, certified to under his hand and the seal of said court, and file such bill with the auditor of the county in which said city is situated, who shall, upon such presentation, draw his warrant upon the treasurer of such county for the amount of the bill so presented, in favor of the judge of said court, and the treasurer of said county shall forthwith pay the same.

To be paid by city—when.

In all trials of criminal cases under the ordinances, by-laws and regulations of said city, when the defendant is acquitted, and when he is convicted and does not pay his fine and costs within ninety days after the final determination of said case, the clerk shall make

out an itemized bill of said costs accruing to the municipal court in such case, certified to under his hand and seal of said court, and file such bill with the recorder or clerk of said city, who shall, upon presentation, draw his order upon the treasurer of said city for the amount of the bill so presented in favor of the judge of said court, and the treasurer of said city shall forthwith pay the same.

SEC. 38. All appeals from any judgment, order or action of said court shall be had to the district court of the county in which such city is situated, in like manner and under the same rules of practice and procedure as in cases of appeal from justice to district courts, the general laws of this state relating to appeals from justice courts, and the laws relating to proceedings for contempt before justices of the peace shall apply to this court.

Appeals.

SEC. 39. Any city in the class mentioned in the title of this act which may wish to avail itself of the provisions of this act shall do so by a resolution of its common council, expressly accepting the provisions hereof, which resolution shall be adopted by vote of four-fifths of all the members of such council, and be approved by the mayor of such city; and this act shall not apply to any such city until the adoption as aforesaid of such resolution.

This act—how adopted.

SEC. 40. This act shall take effect and be in force from and after its passage.

Approved April 9th, 1895.

CHAPTER 230.

S. F. No. 682.

An act to authorize municipal corporations, having a population of not more than five thousand inhabitants to issue bonds to pay the floating indebtedness thereof.

Municipal bonds.

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

SECTION 1. That the common council of any city, village or borough in this state having a population of not exceeding five thousand inhabitants and a floating indebtedness at the time of the passage of this act exceeding the sum of three thousand dollars shall have power and they are hereby authorized and empowered for the purpose of paying such floating indebtedness to issue bonds of such city, borough or village therefor, bearing interest not to exceed seven (7) per cent per

To bond floating indebtedness.