

CHAPTER 19—H. F. No. 125.

An Act to amend section 4707 of the Revised Laws 1905, relating to affidavit of officer of Historical society.

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

Legalizing affidavit of officers of Historical Society.—Section 1. That section 4707 of the Revised Laws 1905 be, and the same is hereby amended so as to read as follows:

Section 4707. **Affidavit of officer of Historical Society**—When a legal notice appears in any newspaper, purporting to have been published in this state prior to the year 1900 and filed with the state historical society, the affidavit of any officer of such society, setting forth a copy of such notice, and stating that it is a true copy of the same as contained in said newspaper, and naming the place where it purports to have been published and the dates of the different issues thereof so on file containing such notice, may be recorded in the office of the register of deeds of any county in which there is real estate which may be affected by such notice; and such affidavit or record shall be prima facie evidence that the paper containing said notice was regularly published at the time and place so stated.

Approved February 19, 1909.

CHAPTER 20—S. F. No. 332.

An Act amending sections four (4) and five (5) as heretofore amended, and sections nine (9), thirteen (13), fourteen (14), nineteen (19) and twenty (20), of chapter thirty-four (34), of the Special Laws of 1889, being entitled: "An Act to consolidate and amend the several acts relating to the Municipal Court of the City of Minneapolis."

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

Title of Minneapolis municipal judge and powers of court.—Section 1. That section four (4), of chapter thirty-four (34), of the Special Laws of 1889, as amended by chapter four hundred sixty-five (465) of the Laws of 1907, be amended to read as follows:

Section 4. The judge of the municipal court shall be a resident of Minneapolis, a person learned in the law, and duly admitted to practice in all the courts of this state. Before entering upon the duties of his office he shall take and subscribe an oath, as prescribed in the general statutes for judicial officers; which oath shall be filed in the office of the city clerk of said city.

There shall be one special judge of said court, whose time and manner of election, term of office, powers, duties and qualifications shall be the same as those of the judge, and his successors shall be elected and vacancies in his office filled in like manner.

There shall also be one associate judge of said court whose time and manner of election, term of office, powers, duties and qualifications shall be the same as those of the judge, and his successor shall be elected and vacancies in his office filled in like manner.

On and after June 1, 1909, the official title of the special judge and the associate judge of said court, respectively, shall be "municipal judge," and all the judges of said court shall be nominated and elected by such designation; *provided*, that nothing herein contained shall be construed to affect the tenure of office of any of the judges of said court holding office at the date of the passage of this act.

Said judges shall have the general powers of the judge of courts of record and may administer oaths, take and certify acknowledgments, fix the amount of bail or the amount of money to be deposited in court in lieu thereof, and as conservators 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.

They shall have the power to stay for a definite period, not exceeding one year, and to indefinitely suspend, the execution of any sentence which they may impose for the violation of a law or ordinance; and may, at their discretion, revoke any such stay, whereupon the sentence shall be executed forthwith. In any case where a person has been committed to the city workhouse or county jail pursuant to a sentence of said court, said judges, or a majority of them, when satisfied that such person will thereafter keep the peace and be of good behavior, may order the release of such person on parole; and if the terms of said parole are violated it shall be their duty to revoke such parole forthwith and to cause such person to be re-arrested and re-committed for such portion of the original sentence as had not expired at the date of such parole; and if no revocation shall be ordered within one year after such date, such person shall be fully discharged and released from such sentence at the expiration of that period.

Clerk; how appointed and removed.—Sec. 2. That section five (5) of said chapter thirty-four (34), as amended by chapter three hundred eighty-seven (387) of the Laws of 1901, be amended to read as follows:

Section 5. There shall be a clerk of said municipal court, whose term of office shall be six years from and after his appointment, who shall be appointed by the judges of said court, or a majority of them, with the advice and consent of the city council of the

city of Minneapolis; and the judges, or a majority of them, shall have power to remove said clerk at any time for cause, or he may be removed by a two-thirds vote of the whole number of the aldermen elected to the city council.

Such clerk, before he enters upon the duties of his office, shall take and subscribe 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 the city of Minneapolis a penal bond in such sum and with such sureties as the city council shall direct and approve, conditioned that he will account to and pay over to the treasurer of said city on the first Monday 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 in virtue of or by reason of his office, and that at the end of his term of office he will forthwith pay over to the city of Minneapolis all moneys to which said city shall then be entitled, and to his successor in office all other moneys then remaining in his hands and which shall have come into his hands in virtue of or by reason of his office.

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

Regular terms; when held.—Sec. 3. That section nine (9) of said chapter thirty-four (34) be amended to read as follows:

Section 9. The municipal court shall hold regular terms for the trial of civil actions on the first (1st) Tuesday of each month, except during the months of July and August, which terms shall continue from day to day with such adjournments as to the court may seem proper until the business of each term is 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.

Civil actions in said court shall be commenced by the service of a summons as hereinafter provided. The summons must be subscribed by the plaintiff, or his attorney, and directed to the defendant, requiring him to answer the complaint and serve a copy of his answer to the person whose name is subscribed to the summons, at a place within the state therein specified, in which there is a postoffice, within ten (10) days after the service of summons, exclusive of the day of service.

The notice to be contained in the summons, the manner of service of the summons, pleadings, notices and appearances shall be the same as that required by law in the district courts of the state and the provisions of chapter seventy-seven (77), Revised Laws, 1905, so far as the same may be applicable and not incon-

sistent with the provisions of this act, shall apply to said municipal court, and all officers acting by authority thereof; except that sections 4258 to 4263, inclusive, and sections 4319 to 4325, inclusive, Revised Laws, 1905, shall not so apply; and except that the time for demurrer and reply shall be ten (10) days in said court.

No police officer of said city shall serve, or attempt to serve, any summons, process, or paper in any civil action in said court, unless the complaint in such action shall have been previously filed with the clerk of said court, and in any case wherein such complaint is so filed said clerk shall, when requested so to do, note or endorse the fact of such filing upon the back of said summons or process. And whenever any such process, summons or paper, in any civil action, shall have been delivered to any police officer for service, he shall, as soon as practicable thereafter, make proper return to said clerk whether said summons, process or paper shall have been served or not, and if not served, the reason therefor. And after the issuing of execution against the property of any judgment debtor, any person indebted to such judgment debtor may pay the amount of such debt, or so much thereof as may satisfy such execution, to the officer holding such execution, and the receipt of such officer reciting the facts shall be a sufficient discharge and satisfaction of so much of said debt as is so paid over to such officer.

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

Said court shall also have authority to provide by rule that the plaintiff or moving party in any civil action or proceeding shall by bond, recognizance, or deposit of money with the clerk, give security for costs in such sums as the court may designate by said rule, before any summons or other process shall issue in the action.

Costs are allowed the prevailing party in actions commenced in said municipal court as follows:

To the plaintiff, upon a judgment in his favor, upon a trial upon the merits, when the amount thereof, or value of personal property recovered, exclusive of costs and disbursements, exceeds fifty (\$50) dollars, and is less than one hundred (\$100) dollars, five (\$5) dollars.

To the defendant, when judgment is rendered in his favor upon the merits, after a trial of an issue of fact, when the amount claimed in the complaint, or value of personal property in replevin, is less than one hundred (\$100) dollars, five (\$5) dollars.

To the plaintiff, upon a judgment in his favor of one hundred (\$100) dollars or more, or in actions of replevin when the value of the property is one hundred (\$100) dollars or more, when no

issue of fact or law is joined, five (\$5) dollars; when an issue is joined, ten (\$10) dollars.

To the defendant, when the amount claimed in the complaint is one hundred (\$100) dollars or more, upon discontinuance or dismissal, five dollars (\$5); when judgment is rendered in his favor upon the merits, ten (\$10) dollars.

Costs and disbursements shall be taxed and allowed in the first (1st) instance by the clerk upon two (2) days' notice by either party, and inserted in the entry of the judgment. The disbursements shall be stated in detail, and verified by affidavits, which shall be filed.

The party objecting to any item shall specify in writing the ground of objection; and the same, in case of appeal, shall be certified by the clerk, and the appeal shall be heard and determined upon the objections so certified, and none other.

Trial by jury and selection of jury.—Sec. 4. That section thirteen (13) of said chapter thirty-four (34) be amended to read as follows:

Section 13. Trial by jury in the municipal court shall in all respects be conducted as in the district courts of said state, and all laws of a general nature applicable to jury trials in said district courts shall apply to said municipal court, except as hereinafter provided.

The judges of said municipal court, or a majority thereof, shall upon the second (2nd) Monday of each and every month, excepting the months of June and July of each year, at the court house in said city, select from the legal voters of said city fifty-two (52) persons properly qualified to serve as petit jurors for the ensuing term, and shall make out and certify a separate list thereof and forthwith deliver such list to the clerk of said municipal court, and from said list of persons all jurors required for the transaction of business in said municipal court shall be drawn.

Of said fifty-two (52) persons, twenty-six (26) shall be forthwith summoned to attend on said court on the first Wednesday of the next term, and twenty-six (26) shall forthwith be summoned to attend on said court on the third Wednesday of said term, and all shall serve as such jurors until excused by the court; *provided*, that if in any month such selection and list shall not be made at the date hereinbefore specified, the same may be done thereafter; *provided, further*, that the validity or legality of such selection or list shall not be affected by the fact that any person or persons so selected may be disqualified from serving as petit jurors, or by the selection of a greater or less number of persons than as specified in this act.

Out of the jurors so drawn and summoned, jurors shall be selected, when required, in the same manner as in the district courts of the state. Whenever a jury is required in a criminal

case, it shall be selected from a panel so drawn; *provided*, however, that no juror shall be required to attend as such more than one term in any one year. If any person duly drawn and summoned to attend as a juror in said court neglects to so attend, without sufficient excuse, he shall pay a fine not exceeding thirty dollars (\$30), which shall be imposed by the court, and imprisonment until such fine is paid, not exceeding thirty (30) days.

Whenever deemed necessary said court shall have power to issue a special venire.

And jurors so summoned and attending as aforesaid in said municipal court shall be entitled to like compensation as jurors in the district court of Hennepin county, and shall be paid out of the county treasury of said county of Hennepin. The clerk of said municipal court shall deliver to each juror a certificate for the number of days' attendance and service and miles traveled for which he is entitled to receive compensation. This certificate of the clerk for service rendered as such juror in the municipal court shall be filed with the county auditor, who shall issue his warrant on the treasurer of the county for the amount due, which certificate shall be a proper and sufficient voucher for the issuance of such warrant.

And the party demanding a jury in any civil action shall be required to advance and pay to the clerk of said court on the first day of the term at which such action is set for trial a jury fee of three (\$3) dollars, and unless such jury is demanded, and such fee paid, upon the calling of the calendar upon the first 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 tried by the court.

Any juror who has been regularly summoned to attend in said court, and who shall actually attend said court at the time named in such summons, shall be entitled to his per diem and mileage, whether he shall have actually been sworn as a juror or not.

To receive supreme court reports; removal of causes.—Sec. 5. That section fourteen (14) of said chapter thirty-four (34) be amended to read as follows:

Section 14. Section eighty-nine (89), of chapter five (5) of the Revised Laws, 1905, relative to the reporter of the supreme court and the distribution of the supreme court reports, shall apply to the judges of the said municipal court. And all causes may be removed from said municipal court to the supreme court of the state of Minnesota in the same manner, and upon like proceedings, and with like effect, as from district courts. *Provided*, however, that when a motion for a new trial is made upon the minutes of the judge, or upon the minutes of the stenographic reporter, where there is such reporter, it may be heard at the term

of court next succeeding the term at which the trial is had or the verdict or decision rendered. And said municipal court shall have jurisdiction of action 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 seventy-six (76) of the Revised Laws, 1905, relative to forcible entries and unlawful detainers, shall apply to said municipal court and the summons issued by the clerk in such actions may be in form as follows:

State of Minnesota }
 County of Hennepin } ss. Municipal Court, City of Minneapolis.

The State of Minnesota to any police officer of the City of Minneapolis, or the sheriff, or any constable of said county:

Whereas...of...has filed in the office of the clerk of the above named court a complaint against...of the county of Hennepin and state aforesaid, for that the said...does now at...in said Hennepin county, wrongfully and unlawfully detain from the said...complainant, the possession of the following described premises lying and being...in the county of Hennepin aforesaid, viz.....

Wherefore...complainant asks that he have judgment against the said...for the restitution of the premises hereinbefore described, according to law, and for the costs and disbursements of this action.

Therefore, you are hereby commanded to summon the said..., if to be found in said county, to appear before said court at the municipal court room in the city of Minneapolis, in said county of Hennepin, on the...day of...A. D. 19...at...o'clock in the...noon, then and there to make answer to and defend against the...complainant aforesaid, and further to be dealt with according to law, and make due return to said court of the summons with your doing thereon.

Witness the Honorable...municipal judge, at the city of Minneapolis, this...day of...A. D. 19...

.....
 Clerk of the Municipal Court.

(L. S.)

Whenever a duly verified complaint in an action of forcible entry and unlawful detainer shows one of the causes of action set forth in section 4038, Revised Laws, 1905, and on the return day of the summons the defendant does not appear, the judge shall, upon proof of the due service of summons, enter an order adjudging the defendant to be in default, and thereupon the clerk shall enter judgment for the plaintiff without the introduction of evidence.

Police officers in attendance.—Sec. 6. That section nineteen (19) of said chapter thirty-four (34) be amended to read as follows:

Section 19. It shall be the duty of the mayor and the police authorities of said city to see that a sufficient number of police officers, to be approved by the judges of said court, or a majority of them, are always in attendance upon said court and in readiness to obey the mandates and serve the processes of said court and preserve order in its proceedings.

Police officers of said city shall hereafter receive for their services no other compensation than the salary paid them by said city; 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 to do so be a misdemeanor punishable by a fine not exceeding one hundred (\$100) dollars, or by imprisonment not exceeding thirty (30) days.

And it shall be the duty of the chief of police, clerk of the municipal court, or any other official of said city who may have knowledge of such failure so to pay over said fees, to forthwith cause complaint to be made against such police officer.

Provided, that this section shall not be so construed as to require any officer or officers so to pay over such fees in cases in which said officer, being regularly or specially appointed, designated or detailed for detective duty, and being in pursuit of any person or persons charged with any crime or misdemeanor, shall under the advice or with the consent of the county attorney of the county of Hennepin, or the city attorney of the city of Minneapolis, pursue said alleged offender or offenders beyond the limits of said city of Minneapolis, in which event said officer or officers shall be entitled to receive for his or their own use and benefit all fees for such pursuit and all rewards offered for the apprehension of such offenders.

District court judges to preside in case of illness.—Sec. 7. That section twenty (20) of said chapter thirty-four (34) be amended to read as follows:

Section 20: In the case of sickness or absence of any judge of the municipal court, either of the judges of the district court for the county of Hennepin may, and hereby is authorized and empowered to hold said municipal court, and perform all the duties and exercise all the functions of municipal judge, and either of said judges of said district court may, upon request of a municipal judge, act as the judge of said municipal court in the trial of any particular cases pending therein.

In case it shall appear from the evidence of either party upon the trial of any cause that the title to real estate is involved in the action, the municipal court shall not proceed further therein,

but shall transfer the action to the district court of said county, and the cause shall be proceeded with in the court to which it shall be transferred as if originally commenced therein.

Sec. 8. All acts and parts of acts inconsistent herewith are hereby repealed.

Sec. 9. This act shall take effect and be in force from and after its passage.

Approved February 24, 1909.

CHAPTER 21—S. F. No. 355.

An Act fixing the time for holding special terms of court in Washington County.

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

Special terms in Washington county.—Section 1. That in addition to the general terms of the district court in Washington county, special terms of said court shall be held in said county on the second and fourth Mondays of each month for the trial of issues of fact by the court, the trial of issues of law, the hearing of motions and applications, and all matters except the trial of issues of fact by a jury.

Sec. 2. All acts and parts of acts inconsistent herewith are hereby repealed.

Sec. 3. This act shall take effect and be in force from and after its passage.

Approved February 25, 1909.

CHAPTER 22—S. F. No. 34.

An Act to amend section 499 of chapter seven (7) of the Revised Laws 1905, relating to the board of auditors.

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

Officers of board of auditors.—Section 1. That section 499 of chapter 7 of the Revised Laws, 1905, be amended so as to read as follows:

“499. **Board of Auditors**—The chairman of the county board, the county auditor and clerk of the district court in each county shall constitute a board of auditors; the chairman of the county board shall be chairman, and the clerk of the district court shall be clerk of said board of auditors, and the board shall meet on