

CHAPTER 264—S. F. No. 489.

An act to amend chapter fifty-three of the special laws of 1891 as amended by chapter three hundred ninety-seven of the laws of 1901 and by chapter two hundred thirty-nine of the laws of 1907, and by chapter three hundred seventy-three of the laws of 1909 and by chapter one hundred two of the laws of 1913 and to consolidate and harmonize the several acts relating to the establishment of the municipal court of the city of Duluth and the practice and procedure therein.

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

Section 1. Consolidation of acts.—The act entitled "An act to confirm and continue the present municipal court of the city of Duluth in the county of St. Louis, in the State of Minnesota, to enlarge the jurisdiction of said court and to regulate the practice thereof" approved April 13, 1891, and the subsequent acts of the legislature amending the same are hereby consolidated and amended so as to read as follows :

Section 2. Court established—Jurisdiction.—The municipal court now existing in the city of Duluth, in the county of St. Louis and State of Minnesota is hereby confirmed, continued and established as a court for the transaction of all judicial business lawfully brought before it. The sessions of said court shall be held in said city of Duluth, at some suitable place to be provided by the city council of said city. Said court shall be a court of record and shall have a clerk and a seal, and the jurisdiction of said court shall be coextensive with the limits of the counties of St. Louis, Lake and Cook, except as hereinafter provided.

Sec. 3. Civil jurisdiction.—Said court shall have jurisdiction to hear, try and determine civil actions and proceedings as follows :

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

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

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

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

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

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

Seventh. To hear and determine all questions that may arise in actions before it under chapter seventy-six of the General Statutes of Minnesota of 1913 and the amendments thereto, relating to forcible entries and unlawful detainer, whether involving the title to real estate or otherwise.

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

Sec. 4. **Criminal jurisdiction.**—To hear all complaints and conduct all examinations and trials in criminal cases, arising or triable in the counties of St. Louis, Lake and Cook, and cognizable before a justice of the peace, or arising under the charter, ordinance, regulations or by-laws of said city of Duluth.

Sec. 5. **Limit of jurisdiction.**—The jurisdiction of said court, however, shall not extend:

First. To any civil action involving the title to real estate, save and except an action brought under and pursuant to chapter seventy-six (76) of the General Statutes of Minnesota, A. D. one thousand nine hundred and thirteen (1913), and the amendments thereto.

Second. Not to any action for divorce, nor any action wherein the relief demanded in the complaint is equitable in its nature.

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

Sec. 6. **Powers of court.**—Said court shall have full power and authority to issue all process, civil and criminal, necessary or proper to carry into effect the jurisdiction given it by law, and its judgment and other determinations, save as hereinafter provided. And it shall have and possess all the powers usually possessed by courts of record at common law, subject to the modifications of the statutes of this state applicable to courts of records. And said court is hereby vested with all powers over cases within its jurisdiction which are possessed by district courts of this state over cases within their jurisdiction; and all laws of a general nature shall apply to said municipal court, so far as the same are applicable and not inconsistent with the provisions of this act; provided that said municipal court shall not have power to issue a writ of habeas corpus, quo warranto, ne exeat, mandamus, prohibition, or injunction.

Sec. 7. **Judges—how and when elected.**—There shall be two

judges and an assistant judge of said municipal court, the term of office of each of which shall be four years. The judge, special judge, and assistant judge of said court, elected at the general municipal election to be held in the city of Duluth, in April 1917, shall each hold his office for a term of four years. From and after the time that this act goes into effect, there shall be no distinction in name or otherwise between the judge and special judge of said court, but each shall be a judge of said court with like powers and duties. Each of the judges and the assistant judge of said court shall assume the duties of the office for which he is elected on the second Monday next succeeding his election at twelve (12) o'clock noon.

Sec. 8. West Duluth division.—The West Duluth branch of the municipal court shall remain as now established, and the assistant judge of the municipal court for said division shall have all the powers of the other judges of said court, but shall not be required to hold court in the city proper, unless directed to do so because of the inability of the other judges to do the business of said court, or because of the sickness or inability to serve of one of the other judges. In case said assistant judge does hold court at the regular municipal court rooms in the city proper, he shall receive ten dollars (\$10.00) per day for each and every day court is so held by him in addition to the salary herein provided. The council shall provide a suitable place for holding court in West Duluth and a place where the business of the clerk, having in charge that division of the court's business, may keep his office and attend to the business of the court. The clerk of the municipal court shall assign to some deputy of his office the work of attending to the business of the West Duluth division, and, if necessary, the council shall allow the clerk of the municipal court an additional deputy for that purpose.

The assistant judge of the municipal court shall hold a term of court at the place provided by the council in West Duluth on the first Wednesday of each month and may hold sessions for the care of criminal business as often as necessary. In case of sickness or inability of the assistant judge of the municipal court to hold any term of court or hear any case, the same may be held or heard by either of the other judges of said court.

A calendar and record of cases tried and to be tried in said West Duluth division of said court shall be kept by the clerk the same as the record of cases is kept in said municipal court proper, and all papers, records and documents pertaining to causes tried, and to be tried, in said West Duluth division of said court shall be kept on file in the West Duluth office unless ordered otherwise by the judges of said court.

Any and all cases civil or criminal, which are subject to the

jurisdiction of the municipal court, may be brought and tried in said West Duluth division. The practice and mode of procedure in the West Duluth division of said court shall be the same in all respects as that in the municipal court proper, except that on all papers pertaining to causes tried, or to be tried, thereat, there shall be added on the face and back thereof wherever the name of the court occurs the additional words: "WEST DULUTH DIVISION."

The assistant judge of the municipal court may practice in the municipal court proper and act as attorney in any case to be tried in said court, except one in which he sits, or is expected to sit, as the presiding judge.

Sec. 9. Qualification of judges.—Each judge of said court shall be a resident of the city of Duluth, a person learned in the law and duly admitted to practice as an attorney in the courts of the state, and before entering upon the duties of his office, he shall take and subscribe an oath as prescribed by the General Statutes for judicial officers, which oath shall be filed in the office of the city clerk of said city.

Sec. 10. Powers of judges.—The judges of said court shall have the general powers of judges of courts of record, and may administer oaths, take and certify acknowledgments in all cases, and as 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 of this state.

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

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

Each judge of said court shall have power, both before and after commitment, to reduce, commute or stay any sentence imposed by him in any case or to parole any person convicted when it is made to appear to the satisfaction of said judge that such action will be for the best interests of the public and of such convicted person.

Sec. 11. **Clerk—appointed—oath—bond.**—There shall be a clerk of said municipal court who shall be appointed by the judges and assistant judge of said court or by a majority of them, and the said judges shall have power to remove said clerk at pleasure. 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 Duluth 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 each day, all fines, penalties, fees and other moneys belonging or to go to said city which may have come into his hands during said day, and that he will at all times pay over to all persons on demand, all moneys to which they may be entitled which may have come into his hands in virtue 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 Duluth all moneys to which said city shall then be entitled, and to his successor in office all other moneys then remaining in his hands by virtue of his office. Such oath and bond shall be filed in the office of the auditor of said city.

And the city auditor shall, on or before the tenth (10th) day of each month, examine the books and records of said court, and the reports of the said clerk for the month next preceding, and make report to the city council of his findings immediately thereafter.

Sec. 12. **Deputy clerks—oath—bond.**—The judges and assistant judge of said court or a majority of them shall have power to appoint, subject to the civil service provisions of the charter of the city of Duluth, and from the persons selected by the civil service board of said city, a first deputy clerk with like powers of the clerk, but acting under the authority of said clerk, and three other deputy clerks who shall have like powers as said first deputy clerk. The judges of said court or a majority of them may, with the consent and approval of the council of the city of Duluth, appoint under said civil service provisions one or more additional deputy clerks of said court in case, in their judgment, necessity therefor arises. Said clerk and deputy clerks shall have full power and authority to administer oaths, swear witnesses and jurors; and said clerk, deputy clerks and the bailiffs or court officers shall perform such duties as the judges shall direct and shall have power to serve all processes of said court, whether civil or criminal, when directed by the court, and all other powers and authority in this act provided for either thereof, and are hereby vested with the usual powers of constables at common law and with the powers and authority

of police officers of the said city of Duluth. If the judges of said court or a majority of them shall so direct one or more of said deputy clerks shall have the qualifications of a stenographer, and shall perform such duties in that regard as the judges prescribe. Such direction or qualification, however, shall not in any way affect the provisions of this act in reference to the official stenographer. Each of said deputy clerks before entering upon the performance of the duties of his office shall first take and subscribe an oath in form as prescribed and execute to the city of Duluth for the use and benefit of said city and all persons injured by failure to observe its conditions a penal bond in the sum of \$1,000.00, with such sureties as the city council may approve, conditioned that he will account to and pay over to the clerk of said court on each day all moneys belonging to or to go to said city, and that he will at all times pay over to said clerk of said court on demand all moneys to which any person may be entitled which may have come into his hands in virtue or by reason of his office. Such bond shall be filed with the same officer as the bond of the clerk.

Provided: That the clerk and deputy clerks of said court in office at the time this act goes into effect shall hold office for the time for which they were appointed, and that none of them shall be required to take a civil service examination in order to continue in office.

Sec. 13. Duties of the clerk.—The clerk shall have the custody and care of all books, papers and records of said court, and of the furniture of the court rooms, jury rooms, and other offices of said court, and shall, from time to time, under the direction of the judges procure and furnish all necessary blanks, stationery, record books, court room, jury room, and office furniture and furnishings and lights, and fuel for the use of the court and the offices thereof, at the expense of the city. He shall be present in court by himself or deputy, unless absent from sickness, or by the consent of the judges and in case of the absence of both clerk and deputy, the judges may appoint some person temporarily to the position. He may swear all witnesses and jurors, and administer all other oaths and affidavits, and take acknowledgments. He shall have the same power and authority in reference to garnishee disclosures as are by law conferred upon clerks of the district court. He shall keep minutes of all proceedings and enter all judgments, orders and sentences, issue commitments as well as all other writs and process; and make up and keep the records of the court under the direction of the judges and when a judge is not present, adjourn the court from day to day. He shall tax all costs and disbursements allowed in every action, subject to review by the judges and do all other acts and things necessary or proper

to the enforcing and carrying out of the jurisdiction of the court. He shall receive all fines, penalties and fees of every kind accruing to the court or any officer thereof, including police officers, and keep full accurate and detailed accounts of the same, and shall on each day deliver over to the city treasurer of the city of Duluth, all moneys so received, with detailed accounts thereof, and take his receipt therefor, and said city treasurer shall from time to time pay over to the treasurer of St. Louis county all such fines as are collected under prosecutions for violations of state laws.

Said clerk as well as the judges of said court are hereby made conservators of the peace, and vested with the same authority, discretion and power to act on receiving complaints and issuing warrants of said court in criminal cases.

Sec. 14. City and county attorneys duties of.—The city attorney of the city of Duluth shall have charge of the prosecution of all criminal cases in said court within the city limits which are not indictable and the county attorney of St. Louis county shall act in the prosecution of all offenders charged with indictable offenses when required by law to prosecute before justices of the peace, or otherwise.

Sec. 15. Stenographers.—The judges of said court or a majority of them shall employ and appoint a shorthand writer to make in shorthand writing a true record or report of the proceedings and evidence taken upon the trials of issues of fact in said court and of all examinations held therein, and, when required by the court or either of the parties to such trial or examination, to transcribe such record and report into longhand. And when, by reason of pressure of business, the services of more than one stenographer are required, at one and the same time, such stenographer shall by direction of the court, procure some competent person to serve as such additional stenographer, and such additional stenographer shall receive as compensation therefor the sum of five (5) dollars for each day or fraction thereof so serving.

Sec. 16. Oath—duty.—Before such reporter shall enter upon the performance of his duties he shall take and subscribe an oath similar to the oaths required of the reporter in the district courts of the state, and file the same with the clerk of this court.

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

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

Sec. 17. **Fees.**—The official or additional reporter of said court shall, upon the written request of either of the parties to an action, proceeding or examination, transcribe his record into ordinary writing or print, and the party requesting such transcription shall pay to said reporter or additional reporter eight (8) cents per folio of one hundred (100) words for each folio, and two (2) cents per folio of one hundred (100) words for each copy thereof.

Sec. 18. **Terms of court.**—Said court shall hold regular terms for the transaction of civil business and trial of civil actions on the first Monday of every month, except the month of August, which terms shall continue from day to day, with such adjournments as the court may deem proper, until the business of such term shall be finished. Provided, that any judge of said court may set cases for hearing and trial upon any day in that or any subsequent term, and provided further that if the first Monday of any month in which a term of court is to be held is a legal holiday then the term shall commence on the next succeeding day.

The terms of said court shall open at ten (10) o'clock in the forenoon. All proceedings in civil causes shall be conducted in a room separate and apart from the room wherein criminal proceedings are being conducted.

Sec. 19. **Term calendar.**—The clerk of the court shall, prior to each term of the court, make up a calendar of the causes which will come up for trial, or for any other disposition before the court, at such term, adopting such arrangements as the judges may direct.

Sec. 20. **Actions—how commenced and conducted.**—All civil actions and proceedings in said court shall be commenced and conducted as prescribed by the statute regulating the commencement pleading, practice and procedure in the district courts of this state, as far as the same may be applicable, except however, as in this act otherwise provided.

Sec. 21. **Time to serve pleadings, etc.**—The time within which any act is to be done in this court shall be one-half of the statutory period prescribed in the district court proceedings. Provided,

First. That no such period shall be less than three (3) days, except as herein provided.

Second. That two (2) days' notice of taxation of costs shall be given.

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

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

Fifth. The practice and proceedings in actions under chapter seventy-six (76), of the General Statutes of one thousand nine hundred and thirteen (1913), shall be the same as in justice's court, except that the summons shall be issued by the clerk and be made returnable on Monday of each week, except when Monday is a legal holiday in which case it shall be made returnable on the next day.

Provided: That where personal service of the summons and complaint is made on the defendant as required by law and no answer is interposed or appearance made on the part of the defendant on the return day judgment for possession may be entered by the clerk, without formal proof, upon the filing of an affidavit of default by the complainant.

Sixth. The notice required of the taking of depositions to be used in said court shall be the same as in the district courts of this state.

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

Sec. 22. **Counter-claims in excess of jurisdiction—equitable defenses.**—Whenever it shall be made to appear that a counter-claim in excess of five hundred (500) dollars, or any equitable defense or ground for equitable relief is interposed, or that the title to real estate is involved, save as is provided in section three (3), sub-division seven (7), of this act, said court shall immediately cause an entry of the fact to be made of record and cease all further proceedings in the case, and within twenty (20) days thereafter without additional fees the clerk shall certify and return to the district court, of said county of St. Louis, a transcript of all entries made in the record relating to the case, together with all process and other papers relating to the suit; and thereupon said district court shall proceed in the cause to final judgment and execution according to law, the same as if the said suit had been originally commenced in the district court, and the costs shall abide the event of the suit.

Sec. 23. **Attachment—replevin—garnishment.**—Proceedings by attachment, replevin, or garnishment in said court, shall be conducted as in the district courts of this state; provided, that the bonds required in such proceedings shall be executed with sufficient sureties and be in double the amount claimed in attachment, and not less than the sum of two hundred and fifty (250) dollars, or in double the value of the property claimed

in replevin, and all bonds required or allowed in such proceedings shall be approved by one of the judges of said court.

And provided, further, that in garnishment proceedings the affidavit required shall be the same as in justice court, and no judgment shall be rendered against a garnishee when the judgment against the defendant is less than ten (10) dollars, exclusive of costs, nor when the indebtedness of the garnishee to the defendant or the value of property, money, or effects of the defendant, in the hands or under the control of the garnishee, as proved, is less than ten (10) dollars.

Sec. 24. **Depositions.**—Depositions may be taken and used in said court in like manner as in the district court.

Sec. 25. **Tenders.**—Tenders of money may be pleaded and made in said court in like manner and with like effect, as in the district court.

Sec. 26 **Stay of execution.**—Execution may be stayed in this court in like manner, as in the district court.

Sec. 27. **Confession of judgment.**—Judgment may be confessed and filed and entered in said court in like manner, as in the district court.

Sec. 28. **Second trial—under chapter 76, general statutes, 1913.**—Whenever the title to real estate for the possession of which action is brought under chapter seventy-six (76) of the General Statutes of one thousand nine hundred and thirteen (1913), is involved and determined in this court, the person aggrieved thereby may, after written notice of the judgment entered in such action, apply to the court, and have said cause transferred to the district court for the county of St. Louis, upon complying with the following requisites:

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

Second. Within twenty-four (24) hours after notice of such judgment he shall serve upon the adverse party a notice in writing of at least three (3) days, stating that he will apply to the court at the next regular term thereof, occurring not less than four (4) days after such judgment is entered, naming such term, for an order of the court certifying said cause to the district court of the county of St. Louis, for a second trial, and that he will then apply to the court to fix the amount of the bond hereinafter provided for, and that he will then propose the name of (insert names), as sureties in such bond.

Third. The amount of the bond having been fixed by the court and the proposed sureties approved, such bond conditioned that the party aggrieved will pay the costs of such second trial

and abide any order the court may make therein, and pay all rents, issues, profits and damages justly accruing to the adverse party during the pendency of the action, shall be filed with the clerk of this court within five (5) days thereafter.

Sec. 29. The court to make order.—Upon the filing of such bond the court shall make an order directing that the cause be certified to the district court for a second trial therein.

Sec. 30. Cause to be certified.—The clerk of this court shall, within ten (10) days after the filing of such order, certify the cause, and all papers of record therein, to the district court, and thereafter all proceedings in said action shall be had and conducted in said district court.

Sec. 31. Judgment—stay.—Upon filing the notice provided for in section twenty-eight (28), subdivision two (2), together with proof of service upon the adverse party, all proceedings in the action shall be stayed in this court until the further order of the court.

Sec. 32. Process.—The judges or a majority of them may designate one of their number in whose name process shall be tested and issued under the seal of the court and signed by the clerk, and directed for service to any police officer of the city of Duluth, or the sheriff or any constable of the said counties of St. Louis, Lake and Cook, except as herein otherwise provided. Provided that process tested in the name of any judge of said court shall be valid.

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

Sec. 33. Summons and subpoenas—how served.—Summons and subpoenas may be served by any police officer of the city of Duluth, or by any sheriff or constable of the counties of St. Louis, Lake and Cook, or by any other person not a party to the action, and the service shall be made and the summons returned and filed with the clerk of the court with all reasonable diligence.

Sec. 34. Criminal proceedings—how conducted.—Complaints in criminal cases, where the defendant is not in custody, may be made to the court, or a judge or the clerk and shall be made in writing, or be reduced to writing by the judge or clerk and sworn to by the complainant, whether the offense charged be a violation of the criminal laws of the state or of the ordinances, regulations, or by-laws of said city. Complaints, warrants and

other process in criminal cases may follow substantially the forms heretofore in use by justices of the peace, with such alterations as may be convenient to adapt the same to the style of this court, or may be in such other form as the court may prescribe, sanction or approve.

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

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

Sec. 35. Costs.—Costs shall be allowed to the prevailing party in actions commenced in this court as follows:

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

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

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

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

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

Sec. 36. Disbursements.—Disbursements necessarily made or incurred shall in all cases be allowed to the prevailing party.

Sec. 37. Taxation of costs.—Costs and disbursements shall be taxed and allowed by the clerk of said court after two days notice.

Sec. 38. Clerks' and officers' fees. The plaintiff in any civil action, upon filing his complaint, shall pay to the clerk of said court the sum of two (2) dollars for the use and benefit of the city of Duluth, which sum shall be in full for all costs and fees of said court and clerk, and the police officers of said city, up to and including the entry of judgment and the certifying of transcript of judgment to the district court, and no rebate shall be allowed to any person making such payment: provided, that upon filing an affidavit for garnishment or attachment or in replevin and accompanying bond, the plaintiff shall pay to the clerk for the use and benefit of the city of Duluth the sum of one (1) dollar, which shall be credited upon the sum of two (2) dollars required upon filing the complaint: provided further that no police officer of said city shall be required to serve any paper in any cause until the complaint therein shall have been filed: and provided further, that in case of execution issued from and by said court and delivered to any police officer of said city, said police officer shall charge and collect the same fees as are by law allowed to constables for like services, such fees to be paid by said officer to the clerk of the court for the use and benefit of said city of Duluth.

Sec. 39. Costs and fees in criminal cases.—In all criminal cases tried and determined in said court in which the defendant shall be convicted, the clerk shall tax as costs of court the following sums, to-wit:

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

In cases where the defendant is found guilty and pays the fine and costs adjudged and imposed upon him the clerk shall immediately pay to said witnesses and interpreter the fees they may be entitled to receive. In cases where the defendant is found not guilty, or shall be found guilty and fails to pay the fine and costs imposed, then the fees of said witnesses and interpreter shall, in all cases where the state is a party, be chargeable to and against the county of St. Louis, and in cases to which the city of Duluth is a party such fees shall be chargeable to and against the city of Duluth. When the fees of any

witness or interpreter in such cases are chargeable to and against the county of St. Louis, the clerk of said municipal court shall deliver to each witness or interpreter a certificate signed by said clerk for the number of days and miles traveled, for which he is entitled to receive compensation, and said certificate shall be filed with the county auditor, who shall issue his warrant upon the county treasurer for the amount due, which certificate shall be a sufficient and proper voucher for the issuance of said warrant. When the fees of witnesses or interpreters in said cases shall be chargeable to and against the city of Duluth, the clerk of said municipal court shall make out and certify an order for such witness or interpreter for the amount due said witnesses or interpreter and when so drawn and signed by the clerk the same shall be countersigned by the auditor when the same may be presented to the city treasurer who shall pay the same without any other or further order or action: and said treasurer may hold said order as his voucher for, and to be used in settlement with, the city council.

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

Sec. 40. Trial by jury—demand and fee.—The party desiring a jury in any civil action shall be required to advance and pay to the clerk of said court on the first (1st) day of the term at which such action is set for trial, a jury fee of three (3) dollars for a jury of twelve, and one (1) dollar and fifty (50) cents for a jury of six for the use and benefit of the city of Duluth: and unless such jury is demanded and such fee paid upon the calling of the calendar upon the first (1st) day of the term at which the same is set for trial, it shall be considered to be, and the same shall be, waived, and said action tried by the court.

Sec. 41. Jury cases—how set and tried.—The trial of jury cases shall take precedence of court cases, and in the calling of the calendar on the first (1st) day of each general term all

cases to be tried by jury shall be set for trial commencing with the second (2nd) day of such term, and there shall be one (1) or more jury cases set for said second (2nd) and each succeeding day of said term, until all such jury cases are set for trial: and the trial of jury cases shall commence on the second (2nd) day of each general term, and be continued and proceeded with from day to day until all such jury cases so set for trial have been tried or otherwise disposed of.

Sec. 42. Trial by jury.—Trial by jury in said municipal court shall in all respects be conducted as in the district courts of this state, and all laws of a general nature applicable to jury trials in said district courts shall apply to said municipal court: except, however, as in this act otherwise provided.

Sec. 43. Jury of six—when.—Upon consent of both parties entered upon the record, a jury of six (6) may be ordered by the court.

Sec. 44. Number of jurors to be drawn for each general term.—Twenty-four (24) jurors shall be drawn for each general term of said court, and shall be summoned to appear at said court at ten (10) o'clock in the forenoon of the second (2nd) day of the term for which they are drawn to attend and serve as jurors for the trial of actions in said court, and shall so remain in attendance unless excused by the court until the jury cases for such term are concluded and they are finally discharged for the term by order of the court.

Sec. 45. Jury—method of drawing.—The mayor, or acting mayor of the city of Duluth, the city clerk and one of the judges of said municipal court shall, on the first (1st) Monday in January and July of each year, excepting legal holidays, meet at the office of the city clerk, and from the legal voters of said city select and designate one hundred and forty-four (144) legal voters of said city as jurors for said municipal court to serve therein when required and drawn during the succeeding six (6) months, and until their successors are selected and certified, and shall thereupon certify said names so selected to the clerk of said municipal court, who shall thereupon write names upon ballots and place the same in a wheel or box, and on the Tuesday next preceding the beginning of each general term, the clerk of said municipal court shall by lot draw twenty-four (24) ballots therefrom and the persons named upon the twenty-four (24) ballots as drawn shall be forthwith summoned to attend at said court on the second (2nd) day of the term next ensuing and until excused or discharged by the court: Provided, however, that the jurors selected and constituting the jury list of said court at the time of the passage of this act shall be and constitute such jury list from which juries shall

be drawn as herein provided until the expiration of the six (6) months for which they were selected, and until their successors are selected and certified under the provisions of this act.

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

Whenever a jury is required in a criminal case, or whenever, in the opinion of the judge of said court, it is deemed necessary, the court shall have the power to order a special venire to issue to the proper officer, commanding him to summon from the city at large the number therein named as competent persons to serve as jurors in said court.

Sec. 46. **Time for non-attendance.**—If any person duly drawn or summoned to appear in said court as juror neglects to so attend without sufficient excuse, he shall pay a fine not exceeding thirty (30) dollars, which shall be imposed by the court, or be imprisoned until such fine is paid, not exceeding thirty (30) days.

Sec. 47. **Jurors—how paid.**—Jurors summoned and attending as aforesaid in said municipal court shall be entitled to like compensation as jurors in the district courts as fixed by the general statutes of Minnesota, and shall be paid out of the treasury of said St. Louis county. The clerk of said municipal court shall deliver to each juror so attending a certificate for the number of days attended and miles traveled, for which he is entitled to receive compensation. Such certificate of the clerk of said municipal court shall be filed with the county auditor, who shall issue his warrant on the treasurer of said county for the amount due, which certificate shall be a proper and sufficient voucher for the issuance of said warrant.

Sec. 48. **Appeals to district and supreme courts.**—In any case in which a judgment or order shall be rendered in said municipal court, and from which any party is entitled to appeal, such party may, if he so elect, cause the same to be removed by appeal from said municipal court to the district court of the county of St. Louis, and state of Minnesota, upon the same grounds and in like manner, and upon like proceedings and with like effect as now or hereafter may prevail in case of appeals from the said district court to the supreme court of the said

state; and all laws of a general nature relating to appeals from the district court to the supreme court of the said state, shall, as far as possible, apply to and govern such appeals from the municipal court to said district court, except as herein modified. Orders of said municipal court of the character of non-appealable orders of the district court shall be non-appealable. The time for doing any act relative to the appeals from the said municipal court to the district court herein provided for shall be the same as now provided in case of appeals from the district court to the supreme court. Bond to perfect such appeals to said district court shall be in a sum of not less than one hundred (100) dollars. In civil actions in appeals to said district court, if the appeal be from an order, super-sedeas bonds shall be in such sum and with such sureties as the judge making the order directs and approves, and if from a judgment, shall be in double the amount of such judgment. No stay of proceedings shall arise in any case appealed to said district court unless a super-sedeas bond be given. Said bonds shall conform to the form and conditions of the corresponding bonds given upon appeals to the supreme court from the district court. The clerk of the municipal court shall collect from the party appealing a fee of one (1) dollar for certifying and returning the record to the district court, which fee shall be paid upon filing the notice of appeal, and a fee of one (1) dollar for receiving and docketing such appeal shall be paid to the clerk of the district court by the party appealing, and both fees may be taxed by him if successful as a disbursement; the clerk of the district court shall also receive one (1) dollar for the remittance and certifying and returning the records and proceedings on appeal to the clerk of said municipal court to be paid and taxed by the party obtaining the same, which fees shall cover all charges of said respective clerks in connection with and subsequent to taking such appeal, except as otherwise herein provided. The judges of said district court shall sit together as an appellate court. Said appeals may be brought on for hearing at any special term upon eight days' notice by either party after said record shall have been returned and briefs shall have been served or service thereof waived, and such appeals shall be heard upon the record, one typewritten copy of which shall be furnished by the appellant for the use of each of the judges of said court. Appeals from the decision of the said district court to the supreme court may be taken in the same manner and upon like proceedings as now provided for appeals from the district court to the supreme court except that the record as returned to said district court, together with all orders and proceedings therein had upon said appeal shall stand in place of the settled case. Upon said appeal to

said district court, either party may submit typewritten briefs in addition to oral argument, and if submitted, a copy thereof shall be furnished for each of said judges. Said district court and said municipal court may make such rules not inconsistent with this act and the laws of this state as will govern their courts respectively and facilitate the dispatch of business relating to said appeals. Said district court so constituted upon such appeal shall have power in civil cases to affirm, reverse or modify, the judgment or order appealed from, and in case of reversal may order a new trial. Upon such determination by said district court unless appeal be taken therefrom to the supreme court, the case shall be by said district court remanded to the said municipal court for the performance by it of the requirements of such determination. After any appeal to the district court herein provided for in which a super-sedeas bond has been given, the municipal court shall not issue a transcript of its judgment, if judgment has been already entered, until the appeal has been determined and remittitur received from said district court. The successful party upon any such appeal shall be entitled to tax his actual disbursements, and in addition thereto, the sum of ten (10) dollars as statute costs of such appeal. In case of any appeal to said district court, herein provided for, the clerk of said district court, shall, with the remittitur transmit to the clerk of said municipal court, the record theretofore transmitted to him by said municipal court clerk, and in addition and attached thereto, the order and proceedings or certified copies thereof, had no appeal, and after receipt thereof, said municipal court clerk shall, upon written request of the part entitled thereto, enter judgment.

Sec. 49. Lien of judgment—transcript—territorial jurisdiction as to property.—No judgment rendered in said municipal court shall attach or become a lien upon real estate until a transcript shall be filed in the district court as hereinafter provided for, but writs of execution thereon in civil actions may issue upon the entry of judgment against the personal property of the debtor, returnable within thirty (30) days. Every person in whose favor a judgment is rendered in said municipal court may on payment of all costs, if any, remaining unpaid receive on demand a transcript of such judgment duly certified and file the same in the office of the clerk of the district court of the county of St. Louis, who shall file and docket the same as in the case of transcript of judgment 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 the filing such transcript to the same extent as a judgment of said district court, and shall thereafter, so far as related to the enforcement of the same, against the real estate of the judgment

debtor and personal property of the judgment debtor beyond the counties of St. Louis, Lake and Cook, Minnesota, be exclusively under the control of said district court, and be carried into execution by its process the same as if entered in said district court. The clerk of said municipal court shall note on the record that such transcript has been given; but said municipal court may at any time thereafter take proceedings to enforce such judgment against the personal property of the judgment debtor, the same as if such transcript had not been issued, and the judges thereof are hereby vested with all the powers and jurisdiction in relation to the examination of debtors and otherwise now vested in said district court and the judges thereof, and upon the satisfaction or partial satisfaction of any judgment in said municipal court wherein a transcript of said judgment has been issued it shall be the duty of the clerk of the municipal court to give to the judgment creditor a certified copy of the instrument of satisfaction or partial satisfaction which shall be filed in the district court and such satisfaction or partial satisfaction entered upon the docket thereof, and upon the satisfaction or partial satisfaction of any such judgment in the district court by proceedings upon such transcripts or otherwise it shall be the duty of the judgment creditor to file a certified copy of the instrument of satisfaction or partial satisfaction or a duplicate thereof, in said municipal court.

Sec. 50. Police officers—process in criminal actions.—The police officers of the said city of Duluth are hereby vested with all the powers of constables under the statutes of this state, as well as at common law. It shall be the duty of the police officers of said city to serve all process or other papers issued by said court in the course of criminal proceedings. All such process shall be delivered to the chief of police, and it shall be his duty to see that all such process is faithfully served and duly executed. Where process is required to be served outside the city limits, such process shall be served by the sheriff of the county of St. Louis, or by a deputy sheriff or any constable of the counties of St. Louis, Lake and Cook: provided, that the sheriff shall receive similar fees as are by law allowed to constables for like services.

Sec. 51. Police officers.—It shall be the duty of the commissioner of public safety of said city to see that a sufficient number of police officers are always in attendance upon said court, and in readiness to obey its mandates, serve its process and preserve order under its proceedings; and said commissioner of public safety, shall have the power in his discretion to appoint not exceeding three (3) persons, to be approved by the judge of said municipal court, as policemen for special attend-

ance and duty in said court, irrespective of the general or special rules or legal regulations or enactments relative to the qualifications of policemen; but such person shall receive the same and no greater compensation, unless the council directs greater compensation, than ordinary policemen. All policemen attending such court may be required to give bonds to said city, in such sum as the judge of said court shall direct, for the faithful performance of their duty, such bonds to be for the use of all persons interested; provided, however, that nothing herein contained shall affect the powers and duties of the general police in said court; and if any fee gratuity or reward shall be paid to any police officer for any service, he shall forthwith pay the same over to the clerk of said municipal court for the use and benefit of said city, and the failure so to do shall be a misdemeanor, punishable by a fine not exceeding one hundred (100) dollars or by imprisonment not exceeding thirty (30) days.

Sec. 52. Court confirmed.—All civil and criminal actions pending and undetermined in the municipal court of said city of Duluth upon the passage of this act and all other proceedings in progress at said date in said court shall proceed without interruption in said court.

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

Sec. 53. Salaries.—The salary of the judges of said municipal court shall be three thousand six hundred dollars (\$3,600.00) each per annum, and the salary of the assistant municipal judge shall be one thousand five hundred dollars (\$1,500.00) per annum. The salary of the clerk of said municipal court shall be two thousand one hundred dollars (\$2,100.00) per annum, and the salaries of the deputy clerks herein provided for shall be one thousand two hundred dollars (\$1,200.00) each per annum. In case additional deputy clerks shall be appointed with the consent and sanction of the council of the city of Duluth, as provided in section 12 of this act, the said city council shall fix the compensation of the deputy or deputies so appointed. The salary of the official stenographic reporter of said court shall be one thousand eight hundred (\$1,800) dollars per annum. The city attorney shall receive a salary of six hundred dollars (\$600.00) per annum exclusive of the salary paid said officer by the city council of said city. The salary of each of said officers shall be payable from the city treasury of Duluth in monthly installments, and neither of said officers shall receive

any other fee or compensation except as herein otherwise provided.

Sec. 54. Manner of paying salary.—It shall be the duty of the clerk of said court at the end of each month, to make out and certify an order for each of the officers of said court for the respective amounts due each for the preceding month and when so drawn and signed by the clerk of said court the same shall be countersigned by the mayor or acting mayor of said city and by the city auditor when the same may be presented to the city treasurer, who shall pay the same out of any funds belonging to said city without any other act necessary to be done in the premises, and the city treasurer may hold said order as his voucher to be used in the settlement with the city council.

Sec. 55. Inconsistent act repealed.—All acts and parts of acts inconsistent herewith are hereby repealed.

Sec. 56. When to take effect.—This act shall take effect and be in force from and after the first day of May, 1917.

Approved April 16, 1917.

CHAPTER 265—S. F. No. 900.

An act to amend Sections 9392 and 9393 of Chapter 106, General Statutes, 1913, relating to juvenile offenders.

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

Section 1. Keeping of persons under the age of 18 years.—Section 9392, General Statutes, 1913, is hereby amended so as to read as follows:

9392. Every sheriff or other person having charge of a minor under the age of *eighteen years*, chargeable with any crime, shall provide a separate place of confinement for him, and under no circumstances place him with grown-up prisoners. No court or magistrate shall commit a minor under the age of fourteen years to a jail, lock-up, or police station pending hearing or trial; and, whenever he is unable to procure bail, he may be committed to the care of the sheriff or other public officer, or to the probation officer, who shall keep him in some suitable place provided by the city or county. Every minor while in confinement shall be provided with good reading matter, and his relatives and friends likely to exert a good influence over him shall at all reasonable times be permitted to visit him.

Sec. 2. Who are to be excluded from hearing of trial of minors under 18 years.—Section 9393, General Statutes, 1913, is hereby amended so as to read as follows:

9393. At the hearing or trial of a minor under the age of *eighteen*, charged with any crime, the trial judge or magis-