

Sec. 26. Provisions severable.—If any portion of this act is declared unconstitutional by a court of competent jurisdiction, it shall not affect the validity of the remainder of the act which can be given effect without the invalid portion.

Sec. 27. Laws repealed.—Session Laws 1921, Chapter 424, Session Laws 1925, Chapter 252, and Sections 5823 to 5846, both inclusive, of General Statutes of Minnesota, 1923, and all other acts or parts of acts inconsistent with the provisions of this act are hereby repealed.”

Sec. 28. This act shall become effective from and after its passage.

Approved April 20, 1929.

CHAPTER 271—S. F. No. 402

An act to provide for the appointment in counties now or hereafter having a population of not less than four hundred thousand inhabitants, of a referee in probate, prescribing his qualifications, the manner of his appointment and removal, defining his powers and duties, providing for the reference of certain matters to him as such, fixing his term, fixing his compensation and providing for the payment thereof, and providing for offices for such referee.

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

Section 1. Appointment, Qualifications.—Upon the taking effect of this act the judge of the probate court of any county, in this state, now or hereafter having a population of not less than four hundred thousand inhabitants, is hereby authorized to appoint one referee in probate who shall be a resident of said county and an attorney at law duly admitted to practice before the courts of this state.

Sec. 2. Term, revocation of appointment, vacancies.—Such appointment shall be by the order of said court for a term to expire at the date of the expiration of the term of office for which the judge of said court was last elected, but such appointment may be revoked at any time by the judge of said court and unless so revoked shall stand for the full term thereof. Any vacancy in said office shall be filled in the same manner as the original appointment.

Sec. 3. Compensation, offices.—Such referee shall receive from the county as compensation for his services a salary at the rate of Three Thousand, Six hundred dollars per annum, payable at the same time, and in the same manner, and from the general funds of the county, not otherwise appropriated, and subject to the same provisions of law as the compensation of the judge of said court, and shall be furnished by the county board or other board or commission having charge of the courthouse with a suitable office in the county court house, or in some other suitable place or places in said county to be designated by the judge of said court; and the judge of said court may assign to said referee, from the clerical help now provided for said court and the officers thereof, such clerical help as may be necessary to enable said referee properly to discharge the duties of his said office.

Sec. 4. Reference.—After the appointment of such referee as herein provided the court may by special order refer to said referee for the respective hearings thereon and decisions thereof, each and every issue, other than those issued therein which are heard and decided by the judge of said court, of any matter, cause or proceeding then pending in said court, and the court may by general order refer to said referee for the respective hearings thereon and decisions thereof, each and every issue, other than those issues which are heard and decided by the judge of said court, of any and all matters, causes, and proceedings thereafter coming on for hearing or had before said court during such referee's term of office and each and every such issue of any and all such matters, causes, and proceedings not heard and decided by or had before the Judge of said court, shall without any further order of said court, be thereby referred to such referee, and the signature of the judge on orders, decrees or other process in any and all matters, causes and proceedings shall be conclusive that the issue to which the said order or decree relates was heard and decided by and the proceeding thereon was had before the judge of said court and was not referred to said referee, and the like signature of said referee shall be conclusive that the issue was not heard and decided by nor was the proceeding thereon had before the judge of said court and was referred to said referee.

Sec. 5. Trials and hearings by referee, powers, duties.—In all matters so referred to him the referee in probate shall have all the powers of the judge of said court. Trials and hearings by the referee in probate shall be conducted in the same manner and upon like notice as trials and hearings by the court. His rulings and decisions may be reviewed in the same manner and not otherwise as the rulings and decisions of the court. The decision of the referee in the trial and determinations of the whole cause or any issue shall stand as the decision of the court and the orders, decrees, citations

and other process signed in the name of such court by the referee shall stand as the orders, decrees, citations, and/or other process of the court.

Sec. 6. Completion or matters pending.—When the judge or referee who tried any cause or issue pending in said court or presided at the initial or any intermediate hearing thereon ceases to be such, or dies or becomes incapacitated from sickness or other cause, or is without the county at the time limited for further hearing or proceeding thereon or for the allowance or settlement of matters arising therein or for the entry of intermediate or final order, judgment or decree therein, such further hearing or proceeding may be had before, and such allowance or settlement may be made and such intermediate or final order, judgment or decree may be entered, by the judge or referee of said court, as the case may be, who has not ceased to be such, or is not otherwise so incapacitated. In either case in the further procedure had thereon there shall be considered and adopted the files in the cause, the minutes of the judge or referee, or of the stenographer, if obtainable, and such proof of what occurred at the trial or hearings thereon as may be presented to the satisfaction of the then presiding judge or referee by affidavit, with like effect as if such further procedure were had thereon before the judge or referee who tried the cause or presided at such former hearings thereon.

Sec. 7. Limitations, disqualification.—The limitations upon the powers of the judge of said court shall apply as well to said referee in probate and matters which under the law disqualify the judge of said court from acting in any matter before the said court shall likewise disqualify said referee.

Sec. 8. Referee or law partner not to act as counsel or attorney.—No such referee in probate shall be counsel or attorney in any action or proceeding for or against any legatee, devisee, heir, creditor, executor, administrator, guardian or ward over whom, or whose estate or accounts, said probate court has jurisdiction by law, nor shall he give counsel or advice, or draw or prepare any paper relating to any estate, which is or may be brought before such court, except citations, orders, decrees, executions, warrants, or subpoenas issuing out of such court. Nor shall such referee in probate or the law partner of such referee, appear or practice as attorney in any matter or proceeding before such probate court. Nor shall such referee keep or hold his official office with any practicing attorney.

Sec. 9. Contempt.—Every person who shall behave in a disorderly, contemptuous or insolent manner in the presence of such referee, while actually engaged in a trial or hearing hereunder, of

who shall commit a breach of the peace, noise or other disturbance directly tending to interrupt the proceedings of such referee, or wilfully disobeys or resists the lawful process or mandate of said court acting through such referee or refuses contumaciously and unlawfully to be sworn as a witness, or, after being sworn so refuses to answer any legal and proper interrogatory, or publishes a false or grossly inaccurate report of any proceeding before such referee, shall be guilty of a misdemeanor.

But no person shall be punished as herein provided for publishing a true, full, and fair report of a trial, argument, or other proceeding had before, or decision by, such referee.

Sec. 10. Bond and Oath.—Before entering upon the duties of his office, such referee shall take and subscribe the oath defined in Section 8 of Article 5 of the Constitution and shall execute a bond to the county board in the penal sum of One Thousand Dollars, to be approved by said board, but such approval shall not be arbitrarily withheld, conditioned for the faithful discharge of his duties and for the faithful application of all moneys and effects that may come into his hands in the execution of the duties of his office, which bond, with his oath of office, shall be filed with the register of deeds of said county.

Sec. 11. To turn over books, etc., to judge or successor referee.—Whenever the term of office of a referee in probate expires or is terminated, he shall turn over to his successor in office or to the judge of said court all books and papers in his possession relating to his office, and upon the failure so to do within five days after demand by his successor or the judge of the probate court, he shall be guilty of a gross misdemeanor.

Sec. 12. Validity.—If any section or clause or part of this act shall be found invalid, the validity of the remainder shall in no way be affected thereby. The act shall be liberally construed.

Sec. 13. Effective May 1, 1929.—This act shall take effect and be in force from and after May 1, 1929.

Approved April 22, 1929.

CHAPTER 272—S. F. No. 430

An act to amend Section 2, Article XVIII, Chapter 426, Session Laws of Minnesota for 1925, relating to state boards.