

years of age, or parent or parents, such widow, if *now* single, or if there be no widow, or children now under eighteen years of age, or if there be neither, such mother, or if there be neither widow, children now eighteen years of age, or mother, then such father shall be entitled to and paid out of the Spanish war veterans' fund, the amount which such deceased soldier would have received hereunder for the period of his active service, if living; provided, that where the parents of such deceased soldier are separated or divorced, then and in that event the parent with whom the soldier last resided and who became responsible for his funeral expenses and the expenses of his last illness, shall be paid out of the Spanish war veterans' fund, the sum which such deceased soldier would have received for the period of his active service if living."

Approved April 15, 1935.

CHAPTER 194—H. F. No. 252

An act amending Mason's Minnesota Statutes of 1927, Sections 10667, 10705, relating to criminal procedure and trial, and requiring the defendant in a criminal trial to give notice of intention to claim an alibi.

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

Section 1. Notice of intention to claim alibi.—Mason's Minnesota Statutes of 1927, Section 10667 is hereby amended so as to read as follows:

"10667. That in all cases where a person charged with a criminal offense shall have been held to the district court for trial by any court or magistrate, and in all cases where any person shall have been committed for trial and is in actual confinement or in jail by virtue of an indictment or information pending against him, the court having trial jurisdiction of such offense or of such indictment or information or proceedings shall have the power at any time, whether in term or vacation, upon the application of the prisoner in writing, stating that he desires to plead guilty to the charge made against him by the complaint, indictment or information, or to a lesser degree of the same offense to direct the county attorney to file an information against him for such offense, if any indictment or information had not been filed, and upon the filing of such information and of such application, the court may receive and record a plea of guilty to offense charged in

such indictment or information, or to a lesser degree of the same offense and cause judgment to be entered thereon and pass sentence on such person pleading guilty, and such proceedings may be had either in term time or in vacation, at such place within the judicial district where the crime was committed as may be designated by the court.

Whenever such plea shall be received at any place other than at a regular place of holding court in the county where such offense shall have been committed, the sheriff having such accused person in custody, or the deputy of such sheriff, shall take such person before the district court wherever such court may be in the judicial district wherein such crime shall have been committed. In such cases and before such person shall be taken before the court in any other county than that in which the crime shall have been committed, he shall sign a petition in writing, asking leave to enter such plea, and such petition and request shall be approved in writing by the county attorney of the county wherein such crime shall have been committed. In case such county attorney shall decline to approve such petition and request, any judge of said court may nevertheless in his discretion direct that such accused person be brought before the court at such place as it may designate.

When such person shall be brought before the court in a county other than that in which the offense shall have been committed, unless the court shall otherwise order, it shall not be necessary for the county attorney or the clerk of the district court of the county wherein such offense was committed, to attend before the court; and in such cases the court shall cause due information of all proceedings before the court in any such matter to be communicated to such clerk of the district court, and therefrom such clerk shall be authorized to complete his records with reference to such matter.

The expense of the sheriff in taking any such person before the court and in attending on such proceedings, and the expense of the county attorney and the clerk of the district court when ordered by the court to attend, shall be a charge against the county wherein the crime charged in such indictment or information shall have been committed, and shall be allowed and paid in the same manner as other claims against such county.

Unless the person accused shall expressly waive the services of counsel, and unless the court shall concur therein, no plea of guilty shall be received or entered upon this act unless

the person accused shall be represented by competent counsel; and if he have no means with which to employ counsel, the court shall appoint such counsel and shall be authorized to provide and pay compensation therefor under the provisions of Section 9957, General Statutes of Minnesota 1923.

This section shall not apply to cases where the punishment for the offense to which the prisoner desires to plead guilty is imprisonment *for life* in the state's prison."

Sec. 2. Issues of fact.—Mason's Minnesota Statutes of 1927, Section 10705 is hereby amended so as to read as follows:

"10705. An issue of fact arises: (1) Upon a plea of not guilty; or (2) upon a plea of former conviction or acquittal of the same offence. *Except where defendant waives a jury trial*, every issue of fact shall be tried by a jury of the county in which the indictment was found or *information filed*, unless the action shall have been removed by order of court as provided in sections 10701-10704. *If the defendant shall waive a jury trial, such waiver shall be in writing signed by him in open court after he has been arraigned and has had opportunity to consult with counsel and shall be filed with the clerk. Such waiver may be withdrawn by the defendant at any time before the commencement of the trial.* If the charge against the accused be a misdemeanor, the trial may be had in the absence of the defendant, if he shall appear by counsel; but, if it be for a felony or gross misdemeanor, he shall be personally present."

Sec. 3. Application by County Attorney.—Upon application of the county attorney, the district court in which any criminal proceeding is pending, may require the defendant to file with the court notice of intention to claim an alibi, which notice shall specify the county or municipality in which the defendant claims to have been at the time of the commission of the alleged offence, and upon failure to file such notice the trial court may in its discretion exclude evidence of an alibi in the trial of the case.

Approved April 17, 1935.

CHAPTER 195—H. F. No. 259

An act authorizing the purchase and installation of a state radio broadcasting station or stations to be used for police purposes.