

Section 1. **Proceedings and bonds legalized and ratified.**—All proceedings heretofore taken by any village in this state, having a population of not less than 900 and not more than 1500, situated in any county in this state having not less than 15 full and fractional congressional townships, having not more than 3 incorporated cities, villages or boroughs none of which have a population in excess of 1500 inhabitants, and having an assessed valuation exclusive of moneys and credits of not less than \$1,500,000 nor more than \$3,000,000, wherein the governing body of such village issued bonds to refund the floating indebtedness of the village, such issuance having been made according to Laws 1927, Chapter 331, as amended, and wherein said bonds were heretofore issued and sold and full value received therefor by the village without advertisement for bids prior to such sale as required by law, and/or wherein any defects may have occurred in such proceedings prior to the sale thereof, are hereby validated, ratified, approved, confirmed and declared to be valid and effective as of the date of issuance and sale thereof.

Approved July 15, 1937.

CHAPTER 67—S. F. No. 58

An act amending Laws 1927, Chapter 17, Sections 4, 6, 7, 14, 15, 18 and 19, relating to a court of conciliation and small debtors court in the City of Duluth, County of St. Louis and State of Minnesota.

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

Section 1. **Jurisdiction.**—Laws 1927, Chapter 17, Section 4, is hereby amended so as to read as follows:

“Section 4. Said conciliation 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 fifty (\$50.00) dollars; provided, however, that said conciliation court shall have jurisdiction to hear and determine any cause of action arising on contract for the recovery of money only which may be submitted to the court for adjudication by consent of the parties pursuant to the provisions of section six (6) of this act, if the sum claimed does not exceed two hundred and fifty (\$250.00) dollars.

“Second: Of an action for damages for injuries to the person, or to real property, or for taking, detaining or injuring personal property, if the damages claimed, do not exceed fifty (\$50.00) dollars.

Section 2. **Same.**—Laws 1927, Chapter 17, Section 6, is hereby amended so as to read as follows:

“Section 6. (a) The said conciliation court shall have jurisdiction upon the *petition* of the debtor in any action pending before the said court to appoint a *personal receiver* to receive the personal earnings and income of the debtor and distribute the same to the petitioner and to his creditors in such proportions as may be determined by the court in accordance with the provisions of this act. Provided, however, that said debtor, must, at the time of the filing of the petition, be in the employ of another person, firm or corporation for wages or salary, or on a commission basis, or any combination of wages, salary or commissions, and shall have debts which he is unable to pay. Said petition shall be accompanied by an assignment executed by the petitioner and in form satisfactory to the court of all the wages, salary and commissions of the petitioner then earned and unpaid and thereafter to be earned to the clerk of the municipal court of the city of Duluth, or to such other person as the court may designate and appoint as the personal receiver of said petitioner. In case the petitioner shall leave his employment and accept new employment with a different employer, he shall immediately notify his personal receiver to that effect and shall execute a new assignment of his wages, salary or commission, as the case may be, and shall file the same with the clerk of the conciliation court. The said clerk shall give written notice to the employer named in the assignment of any order of the court appointing a personal receiver.

“Said petition of the debtor shall be verified by the petitioner and shall disclose his assets; his personal earnings and income; the names, ages and relationship of those dependent upon him for support; names of those, if any, who are contributing to the support of his family and the amounts received monthly from each; and the names of all of his creditors and the amounts of their respective claims, and whether said claims are disputed or not, and such further information as the court shall require.

“Upon the filing of such petition, the court shall fix a date for a hearing thereon and shall cause notice of such hearing to be given by mail to all of the creditors named in the petition not less than ten (10) days prior to the date of said hearing. At said hearing the court shall fix the proportion of the personal earnings and income of the said debtor which shall be set aside for the use and benefit of his creditors, hear and adjudicate the claims of the creditors and determine the amounts which said personal receiver shall pay to each of the said creditors on a pro rata basis, and the court, at the same time, shall fix the amount which the petitioner shall be entitled to have set apart for him out of the funds coming into the possession of the personal receiver pursuant to any such assignment of wages, salary or commissions. All creditors appearing and consenting to such personal

receivership shall, during the pendency of the same, be estopped from bringing or maintaining any proceeding in garnishment, attachment, or in aid of execution in the municipal court of the city of Duluth, or in any other court, so long as the said debtor shall not default in the payment to the *personal receiver of such amounts as may have been ordered by said court*. The said conciliation court shall have the power at any time, for cause shown, to terminate any such *personal receivership*. *Such proceedings may be dismissed upon the petition of the debtor, the personal receiver, or any creditor, or upon the court's own motion, if it shall appear that the debtor is not entitled to the benefits of this act, or that the proceeding is collusive, or not in good faith, or that debtor has deceived, or has attempted to deceive the court about any fact material in the said proceedings, or in case it shall appear that the financial involvement of the petitioner is, or may be such, that no reasonable probability exists that the mutual interests of the petitioner and his creditors will be benefited by the continuance of such proceedings.* This provision, however, shall not be construed to prevent any creditor who shall not have consented to the arrangement for a *personal receivership* from bringing or maintaining proceedings in garnishment, or recovering a judgment against the said debtor, nor to prohibit the levy under a writ of attachment or execution upon the property of the said debtor, other than that which may be in the possession of said *personal receiver*. The bringing or maintaining of any proceeding in garnishment, attachment, or in aid of execution in violation of this provision shall be construed as a contempt and the said conciliation court is hereby vested with the same power and jurisdiction as the municipal court to punish therefor. *The certificate of the clerk of the municipal court of the city of Duluth, under the seal of such court, stating that such proceedings are pending in the said conciliation court and giving the date the petition was filed shall be sufficient warrant for any court to stay proceedings by way of garnishment, attachment, or in aid of execution pending before it at the date of the filing of the petition under this act and to dismiss such proceedings thereafter brought.*

"The judge of the conciliation court, may provide, by rule, for notice to such creditors as are recited in the *petition* of the debtor, the authentication and adjudication of claims, the time and manner of payments by the debtor, *or by his employer under an assignment*, the distribution of the fund and all other matters necessary or proper to carry into effect the jurisdiction conferred by this section.

"The court shall designate as *personal receiver* to serve without compensation as such *personal receiver*, the clerk of the municipal court of the city of Duluth, *the probation officer of said municipal court or any other suitable person*. If the official bond of such *person* shall be conditioned upon the fulfillment of the trust as such *personal receiver*, no additional bond shall be required. If not, such *personal*

receiver shall 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 one thousand (\$1,000.00) dollars, with such sureties as the council of the city of Duluth may approve, conditioned that he will 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 as such *personal receiver*. Such bond shall be filed in the office of the auditor of said city and the reasonable cost of such bond shall be paid by said city.

"Said *personal receiver* shall make such reports as the court may require and shall be provided with the necessary books, blanks, stationery, postage and other expense for the execution of his duties in the same manner as other expenses incident to the court are provided for.

"(b). Upon the filing of the petition and assignment executed by the petitioner, the said petitioner shall pay to the clerk of the said conciliation court as a filing fee therefor the sum of fifty (50¢) cents for each creditor named in the petition.

"(c). Upon receipt of notification of the pendency of proceedings under this act from the clerk of the conciliation court, the employer of any person filing a petition and making an assignment as herein provided shall pay to the *personal receiver* named by the court, as the same may become due and payable, all the wages, salary or commissions of such person covered by said assignment. Payment by an employer under any such assignment shall be deemed payment in all respects as if received by said employed person. Provided, however, that nothing herein contained shall be construed as requiring such employer to pay to the said *personal receiver* any money held by such employer under a garnishee summons, valid upon its face, unless and until the same shall be released, or the garnishment proceedings discharged by the court wherein the same are pending.

"(d). The provisions of Mason's Minnesota Statutes, 1927, Sections 4136, 4137, 4138 and 4139, as amended, shall not apply to any assignment of wages, salary or commissions made pursuant to this act.

"(e). Nothing herein contained shall be construed so as to deprive a creditor holding security from pursuing his rights under the instrument giving him such security, but such creditor shall not have the right, unless he shall file with the clerk of the said conciliation court his consent in writing to a suspension of the enforcement of his security during the pendency of such *personal receivership*, to participate in any fund under the provisions of this act.

"(f) Any person claiming to be a creditor of any person filing a petition under this act who has not been listed as such in the petition

shall have the right to intervene and prove his claim as though the same had been listed. A creditor having a lien at the time of the filing of any petition under this act by virtue of proceedings in garnishment, attachment, or in aid of judgment against the salary, wages or commissions of any petitioner hereunder shall have the right to have his claim allowed in proceedings under this section, but, as a prerequisite thereto, he must release his lien."

Section 3. **Hearings.**—Laws 1927, Chapter 17, Section 7, is hereby amended so as to read as follows:

"Section 7. Whenever any debtor in any action pending before the said conciliation court shall make it appear to said court in his petition for the appointment of a *personal receiver* under and pursuant to the provisions of section six (6) of this act, that he has no property or assets, except such as are exempt from execution under the laws of this State and that his only income arises from his current wages or salary, the court shall fix a date for a hearing, give notice to all creditors named in said petition, as heretofore provided in section six (6) of this act, and if the said court at said hearing finds that the statements set forth in said petition are in all respects true, then said court may appoint a *personal receiver* for such debtor, and in addition thereto, may order that all creditors named in the petition, whether consenting or not, shall be estopped from bringing or maintaining any proceedings in garnishment, attachment, or in aid of execution in the municipal court of the city of Duluth, or in any other court, during the pendency of such *personal receivership*. The court shall give due notice of such order to all creditors concerned. The bringing or maintaining of any proceeding in garnishment, attachment, or in aid of execution in violation of this provision shall be construed as a contempt and the said conciliation court is hereby vested with the same power and jurisdiction as the municipal court to punish therefor."

Section 4. **Actions.**—Laws 1927, Chapter 17, Section 14, subdivisions (a), (b) and (f) are hereby amended so as to read as follows:

"Section 14. (a). Any person having a claim within the jurisdiction of the said conciliation court may commence an action in the said court by appearing before the clerk thereof and subscribing to and *verifying* a claim, which claim shall contain the name and place of residence of the plaintiff and the name and place of residence of the defendant and a brief statement of the nature and amount of said claim and the time when the same accrued. If the said claim involves more than three (3) items, the plaintiff shall deliver to the clerk a list of such items, numbered consecutively, which list shall be attached to and made a part of said claim. If the clerk deems the statement of the claim insufficient to make a *prima facie* case, the court, at the request of the plaintiff, shall decide whether such claim shall be

received. Subpoenas for witnesses, if requested, shall be issued by the clerk, without fee.

“(b) The clerk, when requested, shall draw up said claim and when so subscribed to and verified, shall, upon the payment of the entry fee therefor, immediately file the same, and set down the same for hearing before said judge at a time certain not less than seven (7) days and not more than twelve (12) days from the date of said filing. *Provided, however, that the court may, by order, designate a two-weeks period at any time during the months of July or August in each year during which the clerk shall set no claims for hearing.* The clerk shall give to the person signing the claim a memorandum of the time and place set for the hearing. Said memorandum shall state that if the claim is supported by witnesses, books of account, or documents, they should be produced at the hearing, and also in the case of an unliquidated claim the amount of damages must be proved by the plaintiff at the hearing whether the defendant defends or not.

“(f) The defendant, within the time for answering, may in the manner provided in this section, claim any set-off or counterclaim. *The defendant's claim may be answered by the plaintiff orally at the time set for hearing on plaintiff's claim, or the court may, upon application of the plaintiff, continue the hearing on the original claim and counterclaim to a later date. The penalties upon a defendant provided herein shall likewise apply to any plaintiff with respect to a claim by a defendant.* The original claim, and the claim of set-off or counterclaim, shall be deemed one case and no additional entry fee shall be required.”

Section 5. Judge to hear cases.—Laws 1927, Chapter 17, Section 15, is hereby amended so as to read as follows:

“Section 15. At the time set for hearing, said judge shall hear the statements of the respective parties, and shall use his best endeavor to have said parties settle said controversy then and there by agreement. The judge shall also hear any witnesses produced by either party. The parties and the witnesses shall be sworn; but the court shall conduct the hearing in such order and form and with such methods of proof as it deems best suited to discover the facts and to determine the justice of the case. If the parties agree upon a settlement of the controversy, the judge shall cause the clerk to reduce such agreement to writing. Said written agreement shall contain the terms of the settlement and may be signed by all the parties thereto, but whether or not so signed said settlement when agreed upon and countersigned by the judge and entered upon the judgment docket of the clerk shall have all the force of a judgment of a court of record. In case of a judgment for the recovery of money only, said judgment may by its terms provide for the satisfaction of the same by the payment into the said conciliation court, either in a lump sum, or by

installments in such amounts and at such times, as to said judge, under all the circumstances of the case, may seem just and reasonable. Said conciliation judge may retain jurisdiction for the collection, satisfaction or modification of the terms of said judgment, or, he may, on application therefor, order that a transcript of such judgment shall be issued by the clerk of the said conciliation court to the municipal court proper and that such judgment shall be docketed by the clerk of the municipal court in the same manner and enforced as the judgment of the said municipal court, provided, however, that before any transcript of judgment shall issue from the said conciliation court to the said municipal court proper, the said conciliation judge shall, if necessary, modify the terms of said judgment so as to have the transcript show a judgment for a specific sum."

Section 6. **Costs.**—Laws 1927, Chapter 17, Section 18, is hereby amended so as to read as follows:

"Section 18. Whenever a transcript of any judgment of the said conciliation court is filed in the municipal court proper, as hereinbefore provided, costs in favor of the judgment creditor shall be, without notice to the judgment debtor, taxed and allowed by the clerk of said municipal court and inserted in said judgment by said clerk, as follows:

"1. When the amount of the judgment of the said conciliation court, exclusive of disbursements, does not exceed twenty-five (\$25.00) dollars, the sum of two (\$2.00) dollars and fifty (50¢) cents.

"2. When the amount of the judgment of the said conciliation court, exclusive of disbursements, exceeds twenty-five (\$25.00) dollars, the sum of five (\$5.00) dollars.

"Upon filing any transcript of any judgment of the said conciliation court with the municipal court, the party filing the same shall pay to the clerk thereof the sum of fifty (50¢) cents as a filing fee therefor, which fee shall be for the use and benefit of the said city of Duluth. Said transcript fee shall be taxed and allowed by said clerk and inserted in said judgment."

Section 7. Laws 1927, Chapter 17, Section 19, subdivision (b), is hereby amended so as to read as follows:

"Section 19. (b) Within ten (10) days after compliance with the foregoing provisions of this section the clerk of the said conciliation court shall deposit the said one (\$1.00) dollar with the clerk of the municipal court for the use and benefit of the city of Duluth and shall file with the said clerk of the municipal court all of the files in such action together with a copy of such judgment and the cause shall be tried in the said municipal court as though originally commenced therein, and the claim of the plaintiff and the answer of the defendant

appearing in the files shall stand as the complaint and answer respectively in such action. *Provided, however, that any pleading may be amended at the time of the trial in the said municipal court at the discretion of said court.*"

Approved July 15, 1937.

CHAPTER 68—S. F. No. 92

An act to amend Section 1, Part 4, Chapter 166, of the Laws of 1935, relating to the qualifications of a legal newspaper.

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

Section 1. **Qualifications of legal newspaper.**—That Part 4, Chapter 166, of the Laws of 1935 be and the same hereby is amended to read as follows :

"Be circulated in and near its place of publication to the extent of at least two hundred and forty copies regularly delivered to paying subscribers and having entry as second class matter in its local post-office. Any person interested in the legality of any publication may request of the county auditor of the county in which such publication is made proof of the legal standing of the newspaper in which such publication is contained. The county auditor shall then demand of the publisher of such newspaper as a public record proof of these qualifications, together with a list of the two hundred forty paying subscribers. Failure of such publisher to comply with this demand within ten days after receipt of such request shall then forfeit the legal standing of such newspaper.

All of the foregoing conditions shall have existed for at least one year last past, provided, however, that any newspaper which shall have been a duly qualified medium of legal publication under requirements of Section 10935, Mason's General Statutes of Minnesota, 1927, for at least one year immediately preceding the passage of this act as amended, or which shall at any time prior to the time this act shall take effect conform to the requirements herein provided for, shall not affect the qualification or validity of such newspaper as a medium of official and legal publication, and such newspaper shall be deemed to be a legal newspaper, provided that suspension of publication for a period of not more than three months within said year, resulting from the destruction of its office by the elements of unforeseen accident to the equipment thereof shall not affect the qualification of such newspaper after it shall have resumed; nor shall the consolidation of one newspaper with another published in the same