

lection of such surcharge shall be discontinued after the expiration of said 15-day period and shall forthwith mail a copy of the order last mentioned to each insurance company affected thereby. Said surcharge shall be due and payable from such companies to the state treasurer in semiannual instalments on June 30th and December 31st of each calendar year to be kept by the state treasurer in a separate fund and if not paid within 30 days after such dates a penalty of three percent shall accrue thereon and thereafter such sum and penalty shall draw interest at the rate of one percent per month until paid.

Approved March 18, 1955.

CHAPTER 200—H. F. No. 938

[Not Coded]

An act relating to the municipal court of the city of Duluth; amending Laws 1923, Chapter 238, Section 2; Sections 6, 7, 9 and 11, as amended; Section 33A; Section 35, as amended; Sections 36 and 38; Section 47, as amended; Section 50, Section 52, as amended.

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

Section 1. Laws 1923, Chapter 238, Section 2, is amended to read:

Sec. 2. **Jurisdiction.** Said court shall have jurisdiction to hear, try and determine civil actions and proceedings as follows:

(1) Any action arising on contract for the recovery of money only, if the sum claimed does not exceed \$2,000, exclusive of interest accruing after commencement of said action, and costs and disbursements.

(2) Any 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 \$2,000, exclusive of interest accruing after the commencement of said action, and costs and disbursements.

(3) Any action for a penalty, given by statute, not exceeding \$2,000, exclusive of interest accruing after the commencement of said action, and costs and disbursements.

(4) Any action upon a bond, conditioned for the payment of money, not exceeding \$2,000, exclusive of interest ac-

cruing after the commencement of said action, and costs and disbursements, 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.

(5) Any action upon official bond, or bond taken in said court, if the penalty does not exceed \$2,000.

(6) To take and enter judgment on the confession of a defendant, when the amount does not exceed \$2,000, exclusive of interest accruing after the commencement of said action, and costs and disbursements.

(7) To hear and determine all questions that may arise in actions before it under *Minnesota Statutes 1953, Chapter 566* and the amendments thereto, relating to forcible entries and unlawful detainer, whether involving the title to real estate or otherwise.

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

Sec. 2. Laws 1923, Chapter 238, Section 6, as amended by Laws 1941, Chapter 300, Section 2 is amended to read:

Sec. 6. **Judges; term, election.** There shall be two judges of said municipal court, the term of office of each of which is four years. On the first Tuesday in April, 1957, and every four years thereafter, two judges of said court shall be elected. Each judge shall assume the duties of the office for which he is elected on the second Monday next succeeding his election at 12 o'clock noon. A special judge, having the same powers and qualifications as said judges, shall be appointed by the city council of said city after each general municipal election, commencing in April 1957. The term of office of the special judge is two years and a vacancy is filled by like appointment for the unexpired term. The special judge is empowered to hold court only when directed to do so because of the press of business of said court, or because of the sickness or inability to serve of one of the judges. In case the special judge shall hold court, he shall receive compensation for such service at the rate of \$35 per day. The special judge may practice in the municipal court and act as attorney in any case tried therein except one in which he sits, or is expected to sit, as presiding judge.

Sec. 3. Laws 1923, Chapter 238, Section 7, as amended by Laws 1941, Chapter 300, Section 3, is amended to read:

Sec. 7. West Duluth division. *Except as hereinafter provided* the West Duluth division of the said municipal court shall remain as now established, and the assistant judge of the said 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 either said assistant judge or the conciliation judge for the municipal court does hold court at the municipal court rooms in the city proper, as fixed by law, he shall receive additional compensation at the rate of \$10 for each day necessarily spent, but when he spends less than one-half of a day, he shall be allowed only \$5 therefor, notwithstanding the provisions of any existing act in conflict herewith.

The council shall provide a suitable place for holding court in that portion of the city of Duluth known as 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 said 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.

The assistant judge of the said municipal court shall hold sessions for the care of criminal business as often as necessary. In the case of sickness or inability of the said assistant judge of the said municipal court to hear any case, the same may be heard by either of the judges of said court.

A record of cases tried and to be tried in said West Duluth division of said court shall be kept by the said clerk the same as the record of cases is kept in said municipal court proper, and all papers, records and documents pertaining to cases 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, and there shall be added on the face and back thereof wherever the name of the court occurs, the additional words: "West Duluth Division".

Notwithstanding the provisions of any existing act to the contrary, neither the assistant judge nor the conciliation judge for the municipal court shall practice in the municipal court or act as attorney in any case to be tried in said court.

When the present term of office of the person who holds the office of assistant judge of the municipal court of the city of Duluth expires, or if a vacancy shall occur in said office prior thereto, the West Duluth division of said court and the office of said assistant judge are abolished. At that time the

said West Duluth division is merged in the municipal court proper, and the powers, functions, duties and authority of the assistant judge are transferred to, vested in and imposed upon the judges of the said municipal court. The provisions of Laws 1951, Chapter 615, Section 4, shall govern the salary of the assistant judge during the time that office shall remain in existence.

Sec. 4. Laws 1923, Chapter 238, Section 9, as amended by Laws 1931, Chapter 57, Section 1, is amended to read:

Sec. 9. **Powers, duties; 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 bylaws of said city are observed and executed; and for that purpose shall open said court every morning, *Saturday*, Sunday and legal holidays excepted, proper provision being made for bail to appear the next *open day* following such *Saturday*, Sunday or legal holiday 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 county of St. Louis, and to hear, try and determine in a summary manner all cases of violation of the ordinances, laws, regulations and bylaws of said city. *Provided, however, court shall be open every Saturday morning when the Friday immediately preceding or the Monday next succeeding has been or will be observed as a legal holiday.*

Said judges shall have power to make and prescribe such rules and regulations for the government of said court and the dispatch of 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. 5. Laws 1923, Chapter 238, Section 11, as amended by Laws 1925, Chapter 85, Section 2; Laws 1949, Chapter 429,

Section 1 and Laws 1951, Chapter 615, Section 1, is amended to read:

Sec. 11. Deputy clerks, employees; powers, duties. The clerk of said court, with the consent and approval of the judges shall have the power to appoint a first deputy clerk with like powers of the clerk, but acting under authority of said clerk, one deputy clerk to serve as chief clerk for the conciliation court established pursuant to Laws 1927, Chapter 17, and *four* deputy clerks who shall have like powers as said first deputy clerk. The clerk of said court, under the direction of the judges of said court, may, with the consent and approval of the council of the city of Duluth, appoint 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, *probation officer* and the bailiffs or court officers shall perform such duties as the judges shall direct and shall have power to serve all process 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 vested hereby 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 shall so direct, *the clerk of said court shall assign one deputy clerk to assist the probation officer in the performance of his duties.* Each of the 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 with such sureties as the city council may approve, conditioned that he will account and pay over to the clerk of the 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.

Sec. 6. Laws 1923, Chapter 238, Section 33A, as amended by Laws 1925, Chapter 85, Section 8, is amended to read:

Sec. 33A. Probation officers. There shall be appointed by the judges of said court a probation officer, who shall hold his office at the pleasure of said judges.

The probation officer or *the deputy clerk assigned to assist him* shall be present at every session of the court. He shall re-

ceive all persons placed on probation by said court and committed to his care during such probation period and perform such acts with reference to them as the judgment of the court may direct.

Such probation officer shall make such reports as the court may require and shall be provided by the clerk of said court with the necessary books, blanks, stationery, postage and other expenses for the execution of his duties in the same manner as the other expenses incident to the court are provided for.

Sec. 7. Laws 1923, Chapter 238, Section 35, as amended by Laws 1931, Chapter 57, Section 3, is amended to read:

Sec. 35. **Disbursements.** Disbursements necessarily made or incurred shall in all cases be allowed to the prevailing party.

Sec. 8. Laws 1923, Chapter 238, Section 36, is amended to read:

Sec. 36. **Costs, taxation.** Costs and disbursements shall be taxed and allowed by the clerk of said court after two days' notice. *The judges have power to prescribe by rule a schedule of attorney's fees in default cases wherein the defendant has agreed in writing to pay a reasonable attorney's fee. The said clerk is authorized without reference to the court to tax and allow as costs the fees permitted by such schedule, provided such fees have been pleaded and the defendant's written promise to pay said fees has been filed with the clerk. In any case submitted to the court for hearing and order, attorney's fees shall be fixed by order of the court in such amount as the court may deem proper.*

Sec. 9. Laws 1923, Chapter 238, Section 38, is amended to read:

Sec. 38. **Fees of clerk and witnesses; criminal cases.** *Subdivision 1:* In all criminal cases tried and determined in said court in which the defendant is convicted, the clerk shall tax as costs of the court:

(a) where no warrant is issued and the defendant pleads guilty, \$5; (b) where a warrant is issued and the defendant pleads guilty \$7.50; (c) where the defendant pleads not guilty and is tried by the court and found guilty, \$10; (d) where the defendant pleads not guilty and is tried by a jury and found guilty, \$20; said sums respectively to be in addition to all costs of witnesses and interpreters, and where a jury trial is had, a jury fee of \$3.

Subd. 2. In cases where the defendant is found guilty and pays the fine and costs the clerk shall immediately pay to *any witness or interpreter testifying on behalf of the state or city* the fees they may be entitled to receive. In cases where the defendant is found not guilty, or *is* found guilty and fails to pay the fine and costs, then the fees of said witnesses and interpreter shall, in all cases where the state is a party, be chargeable to the county of St. Louis, and in cases to which the city of Duluth is a party such fees shall be chargeable to the city of Duluth.

Subd. 3. When the fees of any witness or interpreter are chargeable to the county of St. Louis, the clerk shall deliver to each witness or interpreter a certificate for the number of days and miles traveled, for which he is entitled to receive compensation. *The certificate is* filed with the county auditor, who *issues* his warrant upon the county treasurer for the amount due, which certificate *becomes* a sufficient voucher for the issuance of *the* warrant. When the fees of witnesses or interpreters *are* chargeable to city of Duluth, the clerk *certifies* an order for such witnesses or *interpreters* for the amount due. *The order may be presented to the city treasurer for payment and when so paid becomes a sufficient voucher for such payment.*

Subd. 4. 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 *Minnesota Statutes 1953, Sections 257.18 to 257.30* shall be chargeable to 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. *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. 10. Laws 1923, Chapter 238, Section 47, as amended by Laws 1937, Chapter 143, is amended to read:

Sec. 47. **Appeals; district court, supreme court.** *Subdivision 1.* 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 cause the same to be removed by appeal from said municipal court to the *district court of the county of St. Louis or to the* supreme court of the 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 the *district court* or to the supreme court of said state, except as herein modified. Orders of the 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 *said district court* or to the supreme court herein provided for shall be the same as now provided in case of appeals from the district court to the supreme court.

Subd. 2. If the appeal to the district court in a civil action be from an order a supersedeas bond shall be given and said bond shall be in such sum and with such sureties as the judge making the order directs and approves; and if the appeal be from a judgment shall be in double the amount of such judgment and with such sureties as the judge may approve. In any event the bond to perfect an appeal to the district court shall be in the sum of not less than \$100. No stay of proceedings shall arise in any case appealed to said district court unless a supersedeas bond be given.

Subd. 3. The party appealing to the district court shall pay:

(a) \$1 to the clerk of the municipal court at the time of the filing of the notice of appeal as a fee of said clerk for preparing and certifying the return to the district court.

(b) \$1 to the clerk of the district court as a fee of said clerk for receiving and docketing such appeal.

The clerk of the district court shall also receive a fee of \$1 for the remittitur and for certifying and returning the record and proceedings on appeal to the clerk of the municipal court to be paid by the party obtaining the same. Such fees shall cover all charges of the respective clerks in connection with and subsequent to taking such appeal, except as otherwise herein provided, and when paid by the prevailing party may be taxed by him as disbursements.

Subd. 4. Three judges of said district court shall sit together as an appellate court. Said appeals may be brought on for hearing at any special term after the record shall have been returned and briefs shall have been served, or service thereof waived, and such appeals shall be heard upon the record, three typewritten copies of which shall be furnished

by the appellant for the use of the judges of said court. Either party may submit typewritten briefs in addition to oral arguments, and if submitted, three copies thereof shall be furnished for the use of said judges. 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.

Subd. 5. 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.

Subd. 6. Upon determination by the said district court of all matters presented by such appeal, 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 supersedeas bond has been given, the municipal court shall not issue a transcript of its judgment, if judgment has already been entered, until the appeal has been determined and the remittitur has been 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 \$10 as statutory costs of such appeal. The clerk of said district court shall transmit to the clerk of the said municipal court with the remittitur the record theretofore received by him and in addition and attached thereto the order and proceedings, or certificate copies thereof, had on appeal, and after receipt thereof, the clerk of the said municipal court shall, upon written request of the party entitled thereto, enter judgment.

Subd. 7. Said district and municipal courts 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 appeals therefrom.

Sec. 11. Laws 1923, Chapter 238, Section 50, is amended to read:

Sec. 50. Court, attendants. It shall be the duty of the commissioner of public safety, or other legally constituted officer or body having supervision and control of the police department and police officers of said city to see that a sufficient number of police officers are always in attendance upon said

court, when required, and in readiness to obey its mandates, serve its process and preserve order under its proceedings. *Police officers when assigned for special attendance upon said court shall be known as bailiffs, or court officers. Each such bailiff or court officer 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 \$1,000, with such sureties as the city council may approve, conditioned that he will account 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 the persons entitled thereto all moneys 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.*

Sec. 12. Laws 1923, Chapter 238, Section 52, as amended by Laws 1925, Chapter 85, Section 7; Laws 1929, Chapter 45, Section 1; Laws 1941, Chapter 300, Section 10; Laws 1943, Chapter 24; Laws 1945, Chapter 361; Laws 1947, Chapter 426; Laws 1949, Chapter 429, Section 2 and Laws 1951, Chapter 615, Section 4, is amended to read:

Sec. 52. **Salaries.** The salary of the judges of said municipal court shall be \$9,000 per annum. The salary of the clerk of said municipal court shall be \$7,080 per annum and the salary of the probation officer shall be \$6,780 per annum. The salary of the first deputy clerk shall be \$5,880 per annum. The salary of the deputy clerks herein provided for shall be \$5,340 each per annum. In case additional deputy clerks shall be appointed with the consent and sanction of the city council of the city of Duluth, as provided in section 11 of this act, the said city council shall fix the compensation of the deputy or deputies so appointed. The salary of the official court reporter appointed under section 14 of this act shall be \$6,780 per annum. The salary of each officer shall be payable from the city treasury of Duluth in semi-monthly installments, and neither of said officers shall receive any fee or compensation except as herein provided.

Approved March 18, 1955.

CHAPTER 201—H. F. No. 1016

[Not Coded]

An act appropriating money from the following funds for the following purposes: from the general revenue fund for expenses of the State Government, including salaries of officers