

CHAPTER 48.

AN ACT TO AMEND AN ACT ENTITLED "AN ACT TO ESTABLISH A MUNICIPAL COURT IN THE CITY OF MINNEAPOLIS," APPROVED FEBRUARY THIRTEENTH (13TH), ONE THOUSAND EIGHT HUNDRED AND SEVENTY-FOUR (1874), AND SUBSEQUENT ACTS AMENDATORY THEREOF.

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

SECTION 1. That section one (1) of an act entitled "An act to establish a municipal court in the city of Minneapolis," approved February thirteenth (13th), one thousand eight hundred and seventy-four (1874), as amended by subsequent acts, be and the same is hereby amended so as to read as follows:

Section 1. There shall be established in the city of Minneapolis, in the county of Hennepin, a municipal court for the transaction of all business which may lawfully come before it. Said court shall be a court of record, and shall have a clerk and a seal, and shall have jurisdiction to hear, try and determine civil actions at law where the amount in controversy does not exceed five hundred dollars (\$500), excepting causes involving title to real estate. It shall also have exclusive jurisdiction to hear all complaints and conduct all examinations and trials in criminal cases arising or triable within the city of Minneapolis heretofore cognizable before a justice of the peace, and also concurrent jurisdiction with the district court in all cases arising under chapter seventeen (17), General Statutes of one thousand eight hundred and seventy-eight. It shall not have jurisdiction of actions for divorce, nor of any action where the relief asked for in the complaint is purely equitable in its nature. Where no provision is otherwise made in this act said municipal court is vested with all the powers which are possessed by the district courts of the state, and all laws of general nature apply to said municipal court, so far as the same can be made applicable, and not inconsistent with the provisions of this act.

SEC. 2. That section two (2) of said act be and the same is hereby amended so as to read as follows:

Section 2. The qualified electors of the city of Minneapolis shall, at the general city election to be holden on the first (1st) Tuesday in April in the year one thousand eight hundred and eighty-three (1883), and on the day of the general city elections in every fourth (4th) year thereafter, elect a suitable person with the qualifications hereinafter mentioned, to the office of judge of said municipal court, to be called municipal judge, who shall hold his office for the term of four (4) years, and until his successor shall be elected and qualified. In case of any vacancy in the office of municipal judge, the governor of the state of Minnesota shall appoint some qualified person to said office until the next annual city election, when a judge shall be elected for a full term of four (4) years.

SEC. 3. That section three (3) of said act be and the same is hereby amended so as to read as follows:

Section 3. The judge of the municipal court shall be a resident of

the city of Minneapolis, a person learned in the law and duly admitted to practice as an attorney in the courts of this state. Before entering upon the duties of his office he shall take and subscribe an oath as prescribed in the General Statutes for judicial officers, which oath shall be filed in the office of the city clerk of said city. He shall have all the general powers of judges of courts of record, and may administer oaths, take and certify acknowledgments in all cases, and as a conservator 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.

There shall be one (1) special judge of said municipal court, whose manner of election, term of office, powers, duties and qualifications shall be the same as those of the municipal judge, except as otherwise provided in this act, and his successor shall be elected and vacancies in his office filled in like manner.

In case of a press of business requiring the attendance of two judges at one time in said court, at the request of the municipal judge, with the approval of the mayor or acting mayor of said city, or in case of the absence or sickness of the municipal judge, at the request of the mayor or acting mayor of said city, the special judge shall act as judge of said court, and when the special judge so acts as judge of said court, the said special judge and the municipal judge may each have and exercise the powers of the said court, and may sit in the trial and examination of cases at the same time. The special judge shall not act on the trial or examination of any case except as above provided, and such special judge so acting as judge of said court, shall receive compensation from the city at the rate of eight dollars (\$8) per day.

This section shall not incapacitate such special judge from acting as attorney in any case in said court, but when such special judge is acting as judge of said court, he shall take no action in such case save to adjourn the same.

SEC. 4. That section four (4) of said act be and the same is hereby amended by inserting after the words "by reason of his office," and before the words "such oath and bond," the following:

"And that at the end of his term of office, he will forthwith pay over to the city of Minneapolis, all moneys to which said city shall then be entitled, and to his successor in office all other moneys then remaining in his hands and which shall have come into his hands in virtue or by reason of his office."

SEC. 5. That section seven (7) of said act be and the same is hereby amended by inserting after the words "He shall receive all fines, penalties and fees of every kind accruing to the court or any officer thereof including police officers," the words "and including also witness fees in criminal cases." And by inserting after the words "city treasurer of the city of Minneapolis all moneys so received," the words "or proper vouchers therefor as herein provided."

And by striking out the words "six hundred dollars (\$600)," and inserting the words "one thousand dollars (\$1,000)." and by striking out the words "quarterly installments," and inserting the following:

"Monthly installments. The said clerk of the municipal court and said deputy clerk, shall not act as an attorney in any case in said court."

SEC. 6. That section eight (8) of said act be and the same is hereby amended so as to read as follows:

Section 8. The municipal court shall hold regular terms for the trial of civil actions, on the first (1st) and third (3d) Tuesday of every month, which terms shall continue from day to day with such adjournment as to the court may seem proper, until the business of each term shall be finished, and the court may by rule or order appoint such terms to be held oftener or upon other days than the days above mentioned. All civil actions for the recovery of money only, shall be commenced by summons, to be issued as in the district courts of the state, or by writ of attachment to be issued by the clerk. The manner of service of summons, pleadings, notices and appearances of parties shall be the same as that required by law in the district courts of the state, and the provisions of title five (5) of chapter sixty-six (66), General Statutes of one thousand eight hundred and seventy-eight (1878), so far as the same may be applicable, subject to such modifications as the court may by rule establish, shall apply to said municipal court.

"No police officer of said city shall serve or attempt to serve any summons, process or paper in any civil action in said court, unless the complaint in such action shall have been previously filed with the clerk of said court, and in any case wherein such complaint is so filed, the said clerk shall, when requested so to do, note or endorse the fact of such filing upon the back of said summons or process, and whenever any such summons, process or paper in any civil action shall have been delivered to any police officer for service, he shall as soon as practicable thereafter, make proper return to said clerk, whether said summons, process or paper shall have been served or not, and if not served the reason therefor. The pleadings in civil actions in said court shall be the same as in the district courts of the state, subject to such modifications as the court may by rule prescribe."

And the court may, for good cause, in its discretion, and on such terms as it may deem equitable, open any default at the same term at which it occurred, or within the term next following thereafter, or allow any amendment of any pleading at any time, and shall disregard variances between the allegations of a pleading and the evidence, unless satisfied that the adverse party is prejudiced thereby. Said court shall also have the authority to provide, by rule, that the plaintiff in any civil action, shall by bond, recognizance or deposit of money with the clerk, give security for costs in such sum as the court may designate by such rule, before any summons or other process shall issue in the action. Costs are allowed to the prevailing party in actions commenced in said municipal court as follows: to the plaintiff upon a judgment in his favor of one hundred dollars (\$100) or more, or in actions of replevin when the value of the property is one hundred dollars (\$100) or more, when no issue of fact or law is joined, five dollars (\$5); when an issue is joined, ten dollars (\$10). To the defendant, when the amount claimed in the complaint is one hundred dollars (\$100) or more, upon discontinuance or dismissal, five dollars (\$5); where judgment is rendered in his favor on the merits, ten dollars (\$10). Costs and disbursements shall be taxed and allowed in the first instance, by the clerk, upon two (2) days' notice by either party, and inserted in

the entry of judgment. The disbursements shall be stated in detail and verified by affidavit, which shall be filed. The party objecting to any item shall specify in writing the grounds of objection, and the same in case of appeal shall be certified to the court by the clerk, and the appeal shall be heard and determined upon the objections so certified, and none other.

SEC. 7. That section nine (9) of said act be and the same is hereby amended by inserting before the words "justices courts," wherever the same occur, the words "the district courts of the state, or in."

SEC. 8. That section ten (10) of said act be and the same is hereby amended by inserting before the words "justices court," wherever the same may occur, the words "the district courts of the state, or in."

SEC. 9. That section eleven (11) of said act be and the same is hereby amended so as to read as follows:

Section 11. Notices of trial shall be served and notes of issue filed as in the district courts of the state, subject to such modifications as the court may by rule prescribe; 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 disposition, before the court at such term, adopting such arrangement as the judge may direct; and the court shall direct the order of the trial, and other disposition of causes.

SEC. 10. That section twelve (12) of said act be and the same is hereby amended so as to read as follows:

Section 12. Trial by jury in the municipal court shall in all respects be conducted as in the district courts of said state, and all laws of a general nature applicable to jury trials in said district courts shall apply to said municipal court. Jurors for said municipal court shall be provided and drawn, however, in the following manner, to-wit: The mayor or president of the city council of the city of Minneapolis, the city clerk and presiding judge of said municipal court, shall on the second (2d) Monday of February, May, August and November in each year at the office of the city clerk of said city meet; and from the legal voters of said city select and designate sixty-four (64) legal voters of said city as the jurors of said municipal court, to serve therein when required and drawn, during the succeeding three (3) months and until their successors are elected and certified, and shall thereupon certify said names so selected to the clerk of said municipal court, who shall thereupon write said names upon separate ballots and place the same in a wheel or box, and whenever a jury is required in said court, shall thereupon by lot draw twenty (20) ballots, the persons named upon which shall be summoned to attend the trial of the cause wherein they were drawn, and the first twelve (12) so summoned and attending shall constitute the jury, unless some of said jurors shall be challenged or excused, in which case the clerk shall consecutively call the remaining jurors so summoned and attending, until the panel so drawn shall be exhausted. No talesman shall be summoned or sit in any cause in said court. And the first (1st) and second (2d) series of twenty (20) ballots each so drawn shall not be returned to said box or wheel, until the third (3d) series shall have been drawn from said box. The persons selected to serve as aforesaid shall not again be eligible during the year in which they may have been selected.

"Jurors summoned and attending as aforesaid in said municipal

court, and duly sworn as such in the trial of any action, shall be entitled to like compensation as jurors in the district court of Hennepin county, and shall be paid in the same manner, and the party demanding a jury in any civil action shall be required to advance and pay to the clerk of said court on the day when such action is set for trial, a jury fee of three dollars (§3)."

SEC. 11. That section fifteen (15) of said act be and the same is hereby amended by inserting before the words "justices courts," the words "the district courts of the state, or in."

SEC. 12. That section sixteen (16) of said act be, and the same is hereby amended by adding at the end thereof, the following:

In cases where the offence charged is bastardy, proceedings shall be, as near as may be, substantially as provided in chapter seventeen (17), general statutes of one thousand eight hundred and seventy-eight (1878), except that said municipal court may do any and all acts therein provided to be done by the district court, and that the bonds to be given under sections three (3) and seven (7) of said chapter seventeen (17), shall be to the city of Minneapolis for the benefit of the city or town which is, or may be liable for the maintenance of the child born or that may be born.

SEC. 13. That section seventeen (17) of said act be, and the same is hereby amended so as to read as follows:

Section 17. The judge of said court shall receive a salary of twenty-five hundred dollars (\$2,500) per year, and the clerk of said court a salary of eighteen hundred dollars (\$1,800) per year, payable from the city treasury of said city of Minneapolis, in quarterly installments; and neither the said judge nor clerk shall receive any other fee or compensation for his services. But in all proceedings had in said municipal court, like fees shall be charged and collected by the clerk, as costs, as are allowed by law to the clerk of the district court of Hennepin county, or to justices of the peace in proceedings and upon trials before them, or for similar services. It shall be the duty of the chief of police of said city of Minneapolis to serve or cause to be served forthwith, and it shall be the duty of the police officers of said city to serve all processes issued by said court, except as otherwise provided in this act, and process shall not be given for service to any sheriff or constable, except in cases of necessity where the services of a police officer cannot readily be obtained; but this clause is directory and shall not affect the validity of service made by any officer. Police officers in making service of any process or doing other duty in respect to causes in said court, shall note and return to the court for collection such fees for such services as are allowed to constables for the like services in justices' court. And all fees, whether so charged by the clerk or by any police officer, shall be collected by the clerk as costs, and by him be accounted for and paid over to the city treasurer of said city, as hereinbefore provided for. The clerk shall pay witnesses in criminal actions the fees to which they may be entitled, when no other provision shall be made by law for such payment, taking receipts therefor in such form as the court may direct, which receipts shall be sufficient vouchers for the payment of the sums therein named, which said sums shall be noted upon the monthly reports of said clerk and deducted from the amount therein otherwise shown to be due the city, and all witness fees collected by the clerk and not paid to witnesses as

aforesaid, shall be paid over to the city the same as other fees accruing to the city, and all balances of deposits for costs remaining in the hands of said clerk for a period exceeding six (6) months after the termination of any action, or for a like period after an abandonment of or failure to prosecute the same, shall be paid over to the city on or before the last day of February, and on the last day of August in each and every year. *Provided*, that in the event that the party or parties to such action or actions who may be entitled to receive said balances of deposits or any portion thereof, may demand the same of said clerk at any time thereafter, and upon giving a receipt therefor to the clerk, he shall pay over the same and said receipt shall be a sufficient voucher for the same in like manner as provided herein in the case of receipts for witness fees. No fees shall be charged against either city, county or state.

SEC. 14. That section eighteen (18) of said act be, and the same is hereby amended by adding at the end thereof, the following:

“And it shall be the duty of the chief of police, or clerk of the municipal court, or any other official of said city who may have knowledge of such failure, so to pay over said fees, to forthwith cause complaint to be made against said police officer. *Provided*, that this section shall not be so construed as to require any officer or officers so to pay over said fees in cases in which said officers, being regularly or specially appointed, designated or detailed for detective duty, and being in pursuit of any person or persons charged with any crime or misdemeanor, shall, under the advice or with the consent of the county attorney of the county of Hennepin, or of the city attorney of the city of Minneapolis, pursue said alleged offender or offenders beyond the limits of said city of Minneapolis, in which event said officer or officers shall be entitled to receive for his or their own use and benefit all fees for such pursuit and all rewards offered for the apprehension of such offenders.

SEC. 15. That section nineteen (19) of said act be, and the same is hereby amended so as to read as follows:

Section 19. In the case of sickness or absence of the judge of the municipal court, and of the special judge, either of the judges of the district court for the county of Hennepin, may and hereby is authorized and empowered to hold said municipal court, and perform all the duties and exercise all the functions of municipal judge, and either of said judges of said district court may, upon request of the municipal judge act as the judge of said municipal court, in the trial of any particular case pending therein. In case it shall appear from the pleadings, or upon the trial of any cause, that the title to real estate is involved in the action, the municipal court shall not proceed further therein, but shall transfer the action to the district court of said county, and the cause shall be proceeded with in the court to which it shall be transferred as if originally commenced therein.

SEC. 16. This act shall take effect and be in force from and after the twenty-first (21st) day of March, eighteen hundred and eighty-three (1883).

Approved March 2, 1883.