

CHAPTER 74.

AN ACT TO AMEND AN ACT ENTITLED "AN ACT TO ESTABLISH A MUNICIPAL COURT IN THE CITY OF MINNEAPOLIS," APPROVED FEBRUARY THIRTEENTH (13TH), A. D. 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. The certain 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 hereby is amended as follows, to wit:

SEC. 2. Section one (1) of said act shall be amended so that said section shall 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 the sum of five hundred (500) dollars, 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 of all civil actions and proceedings heretofore cognizable before a justice of the peace, the defendant or garnishee in which resides within the limits of the city of Minneapolis. 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 a 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, and the jurisdiction of said court shall be co-extensive with the limits of said Hennepin county.

SEC. 3. Section two (2) of said act shall be amended so that said section shall read as follows:

Sec. 2. The qualified electors of the city of Minneapolis shall, at the general city election, to be held 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 election every sixth (6th) 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 six (6) 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 six (6) years.

SEC. 4. Section three (3) of said act shall be amended so that said section shall read as follows:

Sec. 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 the general powers of the 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 special judge of said municipal court whose manner of election, term of office, powers, duties and qualifications shall be the same as those of municipal judge. And his successors shall be elected and vacancies in his office filled in like manner.

SEC. 5. Section seven (7) of said act shall be amended so as to read as follows:

Sec. 7. The clerk of the municipal court shall have the custody and care of all the books, papers and records of said court; he shall be present at all trials, unless absent from sickness, or with the consent of the judge, and in case of his absence the judge may appoint some person temporarily in his place; he may swear all witnesses and jurors, and administer all oaths and affirmations, and take acknowledgments; he shall keep minutes of all proceedings, and enter all judgments, and make up and keep the records of the court, under the direction of the judge; he shall tax all costs and disbursements allowed in any action, subject to review by the judge, and do all other things and acts necessary or proper to the enforcing and carrying out of the jurisdiction of the municipal court; he shall receive all fines, penalties and fees of every kind accruing to the court or any officer thereof, including police officers, and including also witness fees in criminal cases, and keep full, accurate and detailed accounts of the same, and shall, on the first Monday of every month deliver over to the city treasurer of the city of Minneapolis all moneys so received, or proper vouchers therefor, as herein provided, with detailed accounts thereof, and take his receipt therefor; but all penalties collected for the forfeiture of any bond, recognizance or bail given in said court shall be paid to the Minneapolis bar association, to be applied to the support of the law library of said association, and the receipt of the treasurer of said association to said clerk shall be a sufficient voucher for such sums so paid; *Provided*, That the said Minneapolis bar association shall by proper action grant the free use of its said library, and the books therein, to any and all judges of courts of record of the state of Minnesota. The clerk of said municipal court shall also make detailed monthly reports of all persons who are committed to the county jail of the county of Hennepin under sentence of said municipal court, and of all who are committed in default of bail to await the action of the grand jury, which reports as

to all persons convicted of an offense under the state laws, and as to all committed in default of bail, shall be made to the county auditor of Hennepin county, and as to all persons convicted of an offense under the ordinances of said city, shall be made to the city comptroller of said city, and shall in each case be made on the first (1st) day of each month, or on the second (2d) if the first (1st) day comes on Sunday or on a legal holiday, and shall show the name of every person committed during the previous month and since the last report, the nature and cause of the commitment, the length of time for which committed, the offense for which committed, the date of commitment in each case, and whether committed by virtue of a prosecution under the state laws or under the ordinances of said city, and shall also show the names of all persons discharged from said jail since the last report by order of said municipal court, the cause of such discharge and the date thereof. In all cases where the judge of said municipal court remits a fine or suspends a sentence after commitment to the county jail, and in all cases where a person committed to said jail secures his release by the payment of a fine in default of which he was committed, the person imprisoned shall not be released except upon the order of said municipal court and the presentation to the sheriff of said county or to the jailer a written transcript of said order, authenticated by the clerk of said court under its seal which transcript, in the case of a payment of a fine, shall not be issued or given until the actual payment to the clerk of said municipal court of the amount of the fines so paid. The sheriff of said county shall be held strictly accountable as for a breach of official duty if in any of the cases above named a prisoner be released without the presentation of the written evidence above required. The clerk of said court may, when authorized so to do by the city council of the city of Minneapolis, if in their discretion they deem the appointment necessary, with the sanction of the judge of said court, appoint one or more deputy clerks of said municipal court, for whose acts the said clerk of said court shall be responsible and said deputy or deputies shall be appointed under the hand of said clerk and seal of said court, with the sanction of said judge, endorsed on the back of such appointment; and before any deputy clerk of said court shall enter upon the duties of his office he shall take and subscribe the same oath prescribed and required to be taken by the clerk of said court, and execute a bond, to be approved by said clerk, which oath, together with the appointment of such deputy clerk and such bond, shall be filed in the office of the city clerk of said city of Minneapolis, and the clerk of said court or the judge thereof may at any time remove any deputy appointed under the provisions of this act. Deputy clerks appointed under the provisions of this act shall receive a salary of one thousand (1,000) dollars per year, payable from the city treasury of said city of Minneapolis, in monthly installments. The said clerk of the municipal court and any deputy clerk shall not act as an attorney in any case in said court. The deputy clerks appointed under the provisions of this act may administer oaths, take acknowledgments and perform all the duties pertaining to the office of clerk of said municipal court.

SEC. 6. Section eight (8) of said act shall be amended so as to read as follows:

Sec. 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 adjournments 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. Civil actions in said court shall be commenced by the service of a summons as hereinafter provided. The summons must be subscribed by the plaintiff, or his attorney, and directed to the defendant, requiring him to answer the complaint and serve a copy of his answer on the person whose name is subscribed to the summons, at a place within the state therein specified, in which there is a post office, within ten (10) days after the service of the summons, exclusive of the day of service. The notice to be contained in the summons, the manner of service of summons, pleadings, notices and appearances, shall be the same as that required by law in the district courts of the state, and the provisions of title one (1), two (2), three (3), five (5), six (6), seven (7), eight (8), nine (9), ten (10), thirteen (13), fourteen (14), fifteen (15), sixteen (16), seventeen (17), eighteen (18), nineteen (19), twenty (20), twenty-one (21), twenty-two (22) and twenty-three (23) of chapter sixty-six (66), general statutes of one thousand eight hundred and seventy-eight (1878), so far as the same may be applicable, except that the time for demurrer and reply shall be ten (10) days, and except as the same may be modified, changed or altered by this act, 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 indorse 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 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 upon a trial upon the merits, when the amount thereof, or the value of personal property recovered, exclusive of costs and disbursements, exceeds fifty dollars (\$50), and is less than one hundred dollars (\$100), five dollars (\$5). To the defendant, when judgment is

rendered in his favor on the merits, after trial of an issue of fact, when the amount claimed in the complaint, or value of personal property in replevin is less than one hundred dollars (\$100), five dollars (\$5). 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); when judgment is rendered in his favor on the merits, ten dollars (\$10). Costs and disbursements shall be taxed and allowed in the first (1st) instance by the clerk upon two (2) days' notice by either party, and inserted in the entry of [the] 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 ground 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. Section ten (10) of said act shall be amended so as to read as follows:

Sec. 10. When the object of an action is to recover the possession of personal property, the plaintiff, his agent or attorney, shall make and file his complaint, in writing, together with an affidavit, similar to the affidavit required in the district courts of the state, or in a justice's court in a like action. The plaintiff, or some person in his behalf, shall execute a bond, with sureties, to be approved by the judge, conditioned similar to bonds in such actions in the district courts of the state, or in justices' court, and file such bond. And an action may be maintained on such bond as upon similar bonds filed in like action in the district courts of the state, or in justices' courts. The clerk shall thereupon issue the writ, which may be in form as follows:

STATE OF MINNESOTA, COUNTY OF HENNEPIN.	}	ss.	MUNICIPAL COURT, CITY OF MINNEAPOLIS.
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THE STATE OF MINNESOTA,

To any police officer of the city of Minneapolis, or to the sheriff or any constable of said county:

Whereas
 complains that.....has become possessed
 of and [any] unjustly detains from
 the said.....the following described
 goods and chattels, that is to say:

Therefore you are hereby commanded that you cause the same goods and chattels to be replevined without delay, or in case the defendant or some one in his behalf does not file a bond in this court for the de-

livery of such property, as provided by law, approved by said court within three (3) days from said taking, then to deliver to said.....
Witness the honorable.....

Municipal Judge.

This.....day ofA. D. 188 .

.....
Clerk of the Municipal Court.

SEC. 8. Section eleven (11) of said act shall be amended so as to read as follows:

Sec. 11. Notices of trial shall be served as in the district courts of the state, at least three (3) days before the term, and notes of issue, as required in the district courts of the state, shall be filed with the clerk at least one (1) day before the term, 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 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. 9. Section twelve (12) of said act shall be amended so as to read as follows:

Sec. 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 elected 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, if practicable, be summoned to attend the trial of the cause wherein they were drawn; and the first (1st) 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. If any person duly drawn and summoned to attend as a juror in said court, neglects to so attend, without sufficient excuse, he shall pay a fine not exceeding thirty (30) dollars, which shall be imposed by the court, and imprisonment until such fine is paid, not exceeding thirty (30) days. 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. And, whenever deemed necessary, said court shall have power to issue a special venire. The per-

sons selected to serve as aforesaid, shall not again be eligible during the year in which they may have been selected. Jurors so 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 out of the county treasury of said county of Hennepin. The clerk of said municipal court shall deliver to each juror a certificate for the number of days' attendance and service, and miles traveled for which he is entitled to receive compensation. This certificate of the clerk for service rendered as such juror in the municipal court shall be filed with the county auditor, who shall issue his warrant on the treasurer of the county for the amount due, which certificate shall be a proper and sufficient voucher for the issuance of such warrant, 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 (3) dollars, and unless such jury is demanded, upon the calling of the calendar on the first (1st) day of the term at which the same is set for trial, it shall be considered to be, and the same shall be waived and said action be tried by the court.

SEC. 10. Section thirteen (13) of said act shall be amended so as to read as follows:

Sec. 13. Section four (4) of chapter twenty-seven (27) of the general statutes, relative to reporter of the supreme court and the distribution of the supreme court reports, shall apply to the judge of said municipal court. And all causes may be removed from the said municipal court to the supreme court of the state of Minnesota, in the same manner and upon like proceedings, and with like effect, as from district courts. And said municipal court shall have jurisdiction of actions of forcible entries and unlawful detainers and may fix return days for such actions on other than the regular return days of said courts, and chapter eighty-four (84) of the general statutes, relative to forcible entries and unlawful detainers, shall apply to said municipal court, and the summons issued by the clerk in such actions may be in form as follows:

STATE OF MINNESOTA,	}	ss.	MUNICIPAL COURT,
COUNTY OF HENNEPIN.			CITY OF MINNEAPOLIS.

THE STATE OF MINNESOTA,

To any police officer of the city of Minneapolis; to the sheriff, or any constable of the county aforesaid:

Whereas,.....of.....
bath filed in the office of the
 clerk of the above named court a complaint against.....
of
 the county of Hennepin, and state aforesaid, for that the said.....
now does at.....
in said Hennepin county, wrongfully and
 unlawfully detain from the said.....

complainant, the possession of the following described premises, lying and being.....in the county of Hennepin aforesaid, viz.:

Wherefore..... complainant asks that he have judgment against the said.....for the restitution of the premises hereinbefore described, according to law, and for the costs and disbursements of this action.

Therefore, you are hereby commanded to summon the said.....if to be found in said county, to appear before said court, at the municipal court room, in the city of Minneapolis, in said county of Hennepin, on.....day, the.....day of.....A. D. 18.....at.....o'clock in the.....noon, then and there to make answer to and defend against the.....complainant aforesaid, and further to be dealt with according to law, and make due return to said court of this summons with your doing thereon.

Witness the honorable.....municipal judge, at the city of Minneapolis, this.....day of.....in the year one thousand, eight hundred and eighty..... (188—).

Clerk of the Municipal Court,.....

SEC. 11. Section fifteen (15) of said act shall be amended so as to read as follows:

Sec. 15. Proceedings against garnishees may be instituted in the same manner as in the district courts of the state, or in justices' courts, but the summons may be served either by an officer or any indifferent person, at any place within the state of Minnesota, and the service shall in all cases be personal; the summons shall require the garnishee to appear before the said court, or the judge thereof, at a time and place mentioned therein, not less than ten (10) days from the service thereof, and answer touching his indebtedness to the defendant, and any property, money or effects of the defendant in his possession, or under his control, and the summons may be made returnable at any term of said municipal court which may be named therein, and the notice required to be served on the defendant in the action may be signed either by the clerk of said court or the person who served the garnishee summons, or by the plaintiff or his attorney, and shall be served on the defendant at least three (3) days before the time specified in the same for the appearance of the garnishee. The disclosure of the garnishee may be taken and all further proceedings had in the same manner as if the proceedings were in the district court.

SEC. 12. Section sixteen (16) of said act shall be amended so as to read as follows:

Sec. 16. Complaints in criminal cases may be made to the clerk when the court is in session, or to the judge or clerk when not in session; and shall be made in writing or reduced to writing by the judge or clerk, and sworn to by the complainant, whether the offense charged be a violation of the criminal laws of the state, or of the ordinances, regulations or by-laws of said city. And the clerk, as well as

the judge, is hereby made a conservator of the peace, and vested with the same authority, discretion and power to act in receiving complaints and issuing the warrants of said courts in criminal cases. And complaints, warrants and other process in criminal cases may follow substantially the same forms heretofore in use by justices of the peace, with such alterations as may seem convenient to adapt the same to the style of said municipal court; or may be in such other form as the court may prescribe, sanction or approve. In cases where alleged offenders shall be in custody, and brought before the court, or the clerk, without a process, the clerk shall enter upon the records of the court a brief statement of the offense with which the defendant is charged, which shall stand in place of a complaint, unless the court shall direct a formal complaint to be made. The plea of the defendant shall be guilty or not guilty. In case of a failure to plead, the clerk shall enter a plea of not guilty, and a former acquittal or conviction for the same offense may be proved under that plea as well as if formally pleaded. In the examination of offenders charged with indictable offenses, the clerk shall keep such minutes of the examination as the court may direct, and shall make the proper return to the court before which the party charged with the offense may be bound to appear. In cases where the offense 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-four (1874).

SEC. 13. Section seventeen (17) of said act shall be amended so as to read as follows:

Sec. 17. The judge of said court shall receive a salary of twenty-five hundred (2,500) dollars per year, and the special judge of said court a salary of two thousand (2,000) dollars per year, and the clerk of said court a salary of eighteen hundred (1,800) dollars 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 upon trial before them 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. 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' courts. And all fees 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. 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 one (1) month after the termination of any action, or for a like period after an abandonment of or failure to prosecute the same, and all other deposits of money arising from bail, bonds, recognizances, and payment of penalties thereon, or otherwise, shall be paid over to the city on the first (1st) Monday of the month following; *Provided*, That in the event that the party or parties who may be entitled to receive said balances of deposits, or other moneys, 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 the city, county or state.

SEC. 14. Section twenty-two (22) of said act shall be amended so as to read as follows:

Sec. 22. Upon the election and qualification of the municipal judge, all causes and proceedings then pending before justices of the peace within said city shall forthwith, by said justices, be transferred to said municipal court, with all papers and records concerning the same, and said municipal court shall take cognizance of such causes and proceedings, and proceed therein, as if the same were originally commenced in said municipal court. And the dockets, records, files and papers in the custody of any and all justices of the peace of said city shall at once be transferred and turned over to said municipal court, which shall have full jurisdiction to finish and complete all proceedings pending before any justice of the peace, and to enforce, by execution or otherwise, all judgments theretofore rendered by justices of the peace within the present city of Minneapolis, and such judgments shall stand on the same footing as judgments of said municipal court. And after the election and qualification of said municipal judge, no justice of the peace within the city, of Minneapolis shall, issue any process; nor take cognizance of any action or proceedings, civil or criminal, but the jurisdiction of said municipal court, shall, within said city, be exclusive in all cases heretofore cognizable before justices of the peace, except that this act shall not affect the jurisdiction of any court of record having general jurisdiction, such as is conferred upon the district court. And no justice of the peace shall have jurisdiction to issue any summons or process in any civil action, excepting executions, to be served within said city of Minneapolis, and any service of any such summons or process from a justice of the peace made within said city shall be void.

SEC. 15. This act shall take effect and be in force from and after its passage.

Approved February 24, 1885.