

provisions and purposes of this Act, and to publish said rules in connection with the publication of the said "Minnesota Grades."

Sec. 2. This act shall take effect and be in force from and after its passage.

Approved April 25, 1921.

CHAPTER 525—H. F. No. 925.

An act to provide for an additional judge of the municipal court for the city of Saint Paul, Ramsey County, and providing for such judge to act as a court of conciliation and small debtors court providing for procedure in such court; and repealing acts inconsistent herewith.

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

Section 1. **Additional municipal judge for Saint Paul to be termed conciliation judge.**—A judge of the municipal court for the city of Saint Paul in addition to the present judges of said court, and having the same powers and qualifications as said judges, shall be elected at the next general city election, after the passage of this act and every four years thereafter, as by law provided for the election of judges of said court. His term of office shall commence on the first Tuesday in June after his election, and shall continue for a period of four years and until his successor is elected and qualified. The salary of said judge shall be the same, and paid in the same manner, as that of the other judges of said municipal court, but he shall act as a court of conciliation, as hereinafter provided, and for convenience, he may be designated as conciliation judge.

Sec. 2. **Governor to appoint judge within ten days and successor to be elected at general election.**—Within ten days after the passage of this act, the governor shall appoint a suitable and legally qualified person to serve as such conciliation judge of the municipal court of the city of Saint Paul until the election and qualifications of such judge as provided in section 1 of this act. Any vacancy in the position of such conciliation judge shall be filled in like manner by appointment of the governor until the next general city election thereafter.

The judge that is to act as such conciliation court shall be elected to so act, and the candidates for such place shall be designated on all ballots both for primary and general city elections as "Conciliation Judge for the Municipal Court."

Sec. 3. **Powers of conciliation judge.**—Said conciliation judge shall have all the powers of a court of conciliation and shall exercise all the special powers conferred by this act. Said conciliation court shall be open every day except Sundays and holidays at such hours as may be fixed by rule and shall be open for at least two

evenings in each week, for the hearing and determining of controversies submitted to such court in accordance with the provisions of this act. When such judge is not acting as such conciliation court, under this act, he shall act as a regular judge of said municipal court. No costs shall be taxed to either party in said court, but the judge may include in the settlement and judgment such actual disbursements of the prevailing party as are now allowed by law in civil actions, and as may seem to him just and proper, or he may refuse to include any disbursements if same shall appear just and proper, under the circumstances. The clerk and court officers of said municipal court shall be respectively ex-officio clerk and court officers of said conciliation court, but neither said clerk nor any of said officers shall charge any fee for filing or serving any paper in a case brought under the terms of this act, while the same is pending in said conciliation court. Causes in said court shall be conducted by the parties without attorneys, but a removal to the municipal court as provided in this act may be taken through an attorney-at-law.

Sec. 4. Who may appear before said court and whose actions may be commenced—Where action does not exceed \$50.—Any person having a claim within the jurisdiction of said municipal court may appear before said conciliation judge and here state his cause of action without pleadings and without formality. If such cause of action is within the jurisdiction of said municipal court, the judge shall enter the same upon his docket and shall immediately summon the defendant, orally, or by telephone, or by registered or unregistered United States mail, or by personal service of written summons, as provided by law for service of summons in the district court, stating the amount and nature of the claim, and by such summons shall require the defendant to appear before said judge in person, and not by attorney, or if a corporation, by officer or agent, and not by attorney, at a time certain at as early a date as the circumstances of all the parties will permit, and specifying that if he does not so appear judgment will be taken against him by default for the same or relief demanded.

Action in said conciliation court may also be commenced by the plaintiff appearing before the clerk thereof, and subscribing to and verifying a claim, which claim shall contain the name and place of residence of plaintiff and the name and place of residence of defendant, and a brief statement of the amount and nature of said claim and the time when the same occurred. The clerk when requested shall draw up said claim and when so subscribed and verified shall immediately file same, and set down the same for hearing before said judge at a time certain as soon as possible and not more than ten days from said date of said filing, and shall immediately notify the defendant in one of the methods above recited of the name and residence of plaintiff and the nature and amount of his claim and requiring defendant to appear personally before said judge at said time,

and in case he so fails to appear judgment will be taken against him for the amount of relief so claimed. Said judge may by order require all cases brought to said court to be so begun before said clerk. At the time so set 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 may also hear any witnesses produced by either party. If the parties agree on a settlement of the controversy, the judge shall reduce such settlement to writing in his docket. Said written agreement shall provide that all the parties shall abide the judgment to be entered thereon without removal or appeal or further litigation, and may be signed by all the parties thereto, but whether or not so signed said settlement when so agreed upon and so entered and countersigned by the judge shall have all the force of a judgment of a court of record, and if so ordered by said judge shall be docketed by the clerk of said municipal court in the same manner and enforced as the judgment of said municipal court, but said judge, in case of a money judgment may by its terms provide for the satisfaction of the same by the payment of the same into said municipal court, either in a lump sum or in installments in such amounts and at such times, as to said judge, under all circumstances of the case, may seem just and reasonable, or said judge may retain jurisdiction for the collection and satisfaction of the judgment, without execution.

In case the controversy is as to the ownership or possession, or as to both the ownership and possession, of personal property where the value of same does not exceed the sum of fifty dollars (\$50.00) and the action is commenced by the plaintiff filing (as herein provided) with the clerk, a sworn statement as to his ownership, or right of possession, or both, of such property, the court in its discretion may, by order, direct the officer of said court to take possession of such property, immediately, and to hold same subject to the further order of the court, without the giving of any bond whatever.

Sec. 5. (a). Procedure for dismissal.—(a) In case the parties brought before the conciliation court, in the manner provided in this act, do not agree upon the judgment to be entered, then in case the amount in controversy, whether the claim of the plaintiff or a counter-claim on the part of the defendant exceeds the sum of \$50.00, and the judge is satisfied said counterclaim is in good faith, said case shall be forthwith dismissed and dropped from the docket without prejudice, but if the amount involved in controversy be \$50.00 or less, or if said judge is of the opinion that the counter-claim if any, therein in excess of \$50.00 is not in good faith, he shall retain jurisdiction and shall proceed summarily to hear and determine the cause and to enter judgment on his docket. The conclusion of the judge as to the good faith of any counterclaim shall be final and conclusive on all parties for the purpose of the jurisdiction of said court. In case such judgment is not removed, by demand of

either party, to said municipal court within five days after the entry thereof, as provided in this act, and said judgment remains unsatisfied, said judgment, on order of said judge, shall be docketed in the said municipal court by the clerk and shall thereupon be, and be enforced as the judgment of said municipal court, or said judge may retain jurisdiction for the collection and satisfaction of said judgment by payment to him, but no execution shall issue from said conciliation court.

(h) By its terms, said judgment may provide for its satisfaction by payment into court, either in a lump sum or in installments and in such amounts and at such times as to said judge may under the circumstances of the case seem just and reasonable.

(c) The conciliation court shall be subject to the direction of the judge thereof, but the judges of said municipal court may prescribe rules as to procedure, methods of producing evidence and general conduct of the case, and the trial thereof, under the provisions of this section, and for carrying out all the provisions of this act, and they shall have the power to employ one deputy clerk in addition to the deputy clerks now provided by law for said municipal court, at the same salary as that of the chief deputy clerk of said court; which deputy clerk shall be known as the "Conciliation Court Clerk."

Sec. 6. Failure on part of defendant to appear.—In case the defendant duly summoned as provided in section 4 of this act, shall fail to appear at the time set for hearing, the conciliation judge may hear the plaintiff and enter a judgment by default, or he may fix a later date for such hearing in accordance with what seems reasonable and just to said judge under the circumstances. Due notice shall be served on defendant, by mail, or telephone, or written notice, as provided in this act, for the purpose of this hearing, of the time of said postponed hearing, or that judgment has been entered against him by default. If judgment by default is entered, the judgment debtor may appear before said judge, within ten days after the date of such notice of judgment, and upon showing to said judge good cause therefor and paying to said judge for the benefit of plaintiff the sum of two (\$2.00) dollars shall have said judgment set aside. The judge shall then hear said cause at once, if plaintiff is also present, or set same for hearing as soon as possible after notice is given to both parties in the manner provided in this act. If the judgment debtor fails to appear within ten days after notice of such default judgment or fails to appear at such second date set for hearing in either case judgment by default shall stand, or be entered as the case may be, and shall be as to its terms and method of enforcement as provided in section 5 of this act. If the plaintiff fails to appear at the time set for any hearing the action may be dismissed, or continued at the discretion of the judge. Nothing in this act shall be construed to limit the power of the court at its discretion to relieve

against mistake, inadvertence, surprise or excusable neglect as now provided by law.

Sec. 7. Removal of cause to municipal court for trial and procedure for same.—(a) Any person aggrieved by the judgment rendered by said conciliation judge, under section five of this act, and who is entitled to a jury trial under the constitution, may have the case removed to said municipal court for trial, but no case shall be so removed, unless within five days after such judgment is rendered, and after the clerk shall have mailed notice of the entry of said judgment to each of the parties thereto, (which notice shall be mailed immediately and shall specify the day on which the time for removal of said cause will expire) the party so removing same shall do the following, to-wit:

(1) File with said judge a bond executed by the party demanding the removal, his agent or attorney, to the adverse party in a sum sufficient to secure the amount of such judgment, and costs in such municipal court with sufficient surety to be approved by said conciliation judge, conditioned that the party so removing same shall prosecute said case with effect in said municipal court and abide the order of the court therein and pay any judgment that may be rendered against him therein.

(2) File with said conciliation judge an affidavit of the remover, his agent or attorney, stating that said removal is made in good faith and not for the purpose of delay.

(3) Serve on the opposite party a written demand of such removal in the manner now provided by law for the service of summons in said municipal court and file with said judge such original demand with proof of service thereof. Such original demand or proof of service shall show the office address of the attorney of each party, that has such attorney, and the residence address of the party so removing, if he has no attorney, and the residence address of each of the opposite parties who is served with such notice.

(4) Pay to said conciliation judge the sum of one dollar and fifty cents (\$1.50) for costs in said municipal court.

(b) Within three (3) days after all of said things have been done said conciliation judge shall deposit said \$1.50 with the clerk of said municipal court and file with said clerk all of said papers together with a copy of said judgment and a certificate setting out in general terms the claims of the parties thereto before him and the issues tried, and the case shall be tried in said municipal court upon said issues so certified or upon such others as may be stipulated by the parties or ordered by the municipal court or such issues as either party shall demand in writing at the opening of the trial, and a copy of which he has served on the opposite party at least five days before the trials with a notice that such demand will be made.

(c) When said papers are so filed in said municipal court said judgment shall be thereby vacated and said case shall be there pend-

ing and shall be by the clerk set down for trial on the first jury trial day at the foot of the calendar of said day, occurring not less than ten days after the papers are so filed in said municipal court, and shall stand for trial without service of any notice of trial or note of issue whatever, except that at least nine days prior to said trial day said clerk shall mail to each party and each attorney in said case whose address appears in said demand for removal or whose address is known, notice that said case is so set down for trial; provided, that if at any time before said jury trial day the parties in any case shall file a written stipulation waiving trial by jury, or if jury trial be waived by oral agreement in open court on the day of trial said clerk shall thereupon set said case for trial by the court on the first court trial day occurring not less than ten days thereafter, and the said case shall then stand for trial without service of any notice of trial or note of issue, save that the clerk shall mail a notice to the parties, and in the manner, above set forth.

(d) If the judgment creditor remove said case and the final judgment rendered is not increased in his favor, at least ten dollars (\$10.00) over the former judgment, he shall recover no costs in said municipal court, and there shall be entered against him in the judgment, an attorney's fee in favor of the adverse party of ten dollars (\$10.00) either by reducing the judgment in his favor in that amount, or if the amount found in his favor be less than ten dollars (\$10.00) by an affirmative judgment against him for the difference. If the judgment debtor remove said case and final judgment is rendered against him, he shall pay the adverse party in addition to the amount and costs, an attorney's fee to be entered and included in the judgment as follows, viz: five dollars in case the judgment so removed was five dollars or less, and said final judgment aside from costs is not reduced from the judgment at least three dollars; ten dollars in case the judgment so removed was ten dollars or less and said final judgment aside from costs is not reduced at least five dollars; fifteen dollars in case the judgment so removed was more than ten dollars, and said final judgment aside from costs is not reduced at least ten dollars. There shall be no appeal from said municipal court on any action brought there on removal from said conciliation court, but in such case the judgment of said municipal court shall be final.

Sec. 8. Presiding judge to designate conciliation judge in case of absence, sickness or disability.—In case absence, sickness or other disability of said conciliation judge shall prevent him from performing the duties of his office as hereinbefore prescribed, the presiding judge of said municipal court shall designate one of the other judges of said court to perform the duties of such conciliation judge during his absence or disability.

Sec. 9. Nothing in this act shall prevent any person from commencing or prosecuting an action in any court as now provided by law, and nothing in this act shall prevent the parties from waiving

a jury in any case when called for trial after having been removed to the municipal court, as provided by this act.

Sec. 10. Acts in conflict repealed.—All acts, or parts of acts, in conflict with any of the provisions of this act are hereby repealed.

Sec. 11. This act shall take effect and be in force from and after its passage.

Approved April 25, 1921.

CHAPTER 526—H. F. No. 1141.

An act to legalize, validate, ratify and confirm the payment of pensions by any firemen's relief association in cities having a population of more than 50,000 inhabitants where such payment of pensions has been in accordance with by-laws providing therefor, which by-laws had been adopted previous to such payment.

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

Section 1. Proceedings and payments of firemen's relief associations legalized.—That whenever and in all cases where any firemen's relief association in any city in this State having a population of more than fifty thousand (50,000) inhabitants, shall have paid pensions or other benefits to members thereof under the terms and provisions of the by-laws of such association, such by-laws having been theretofore adopted, all steps taken, things done, money paid and expended, and all acts and proceedings had, done and performed, in connection with such payment, under the terms of such by-laws, are hereby legalized, validated, ratified, confirmed and made legal, valid and binding.

Sec. 2. This act shall take effect and be in force from and after its passage.

Approved April 25, 1921.

CHAPTER 527—H. F. No. 29.

An act providing for the listing for taxation by warehousemen of goods in storage and providing a penalty for failure to list.

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

Section 1. Warehousemen to list goods for taxation.—Every person, firm or corporation, engaged in the business of storing goods, wares or merchandise, except grain elevators and grain warehouses, shall on or before May 15th of each year, furnish under oath to the assessor of the assessment district wherein any such goods, wares, or merchandise may be stored, held or kept, a full and true list showing the names and addresses as of May 1st of such year, of all persons, firms or corporations having goods, wares or