

the provisions of this law, no territory therein shall be organized as a town until such time as a majority of the electors of any such county voting on such question shall have voted to permit town organizations therein. The question of permitting town organizations in such county shall be submitted at any general election upon petition to the board of county commissioners signed by qualified voters equal in numbers to at least 20 per cent of the total number of votes cast in the last general election in said county. If a majority of the voters of any such County shall vote in favor of permitting town organization in any such county, any such unorganized territory may be organized into towns under the statutes of the State of Minnesota providing for such town organization.

Sec. 12. **Inconsistent acts repealed.**—All acts and parts of acts inconsistent with the provisions of this act are hereby repealed.

Sec. 13. **Effective May 1, 1929.**—This act shall take effect and be in force from and after May 1st, 1929.

Approved April 24, 1929.

CHAPTER 346—H. F. No. 951

An act to amend Sections 3, 4, 5 and 7, Chapter 525, General Laws 1921, relating to a court of conciliation and small debtors court for the city of St. Paul.

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

Section 1. **Powers of Conciliation Judge.**—That Section 3 of Chapter 525, General Laws 1921, be and the same is hereby amended so as to read as follows:

“Sec. 3. 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, *except that the plaintiff, upon commencing any action in said conciliation court, shall pay to the judge thereof the sum of fifty cents for the use and benefit of the City of St. Paul as a filing fee and costs in said action, which said costs shall be borne by the losing party. Provided, however, that in any case where the plaintiff therein shall subscribe to and file with the said judge an affidavit to the effect that he has no money or property and is unable to pay said filing fee, no such fee will be required to commence said action. The filing of such affidavit shall be proper authority for said judge to receive and file such action without the prepayment of any fee therefor while the same is pending in the said conciliation court. Provided, however, that if any such plaintiff shall prevail in his claim against the defendant, the amount of the filing fee shall be taxed and allowed and inserted in the judgment against the defendant and shall be paid to the judge of the said conciliation court for the use and benefit of the City of St. Paul by any such plaintiff out of any money recovered by him under said judgment. Provided, however, that 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, except the said filing fee, 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, except the filing fee herein provided, 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. 2. Who may appear before said court.—That Section 4 of Chapter 525, General Laws 1921, be and the same is hereby amended so as to read as follows:

“Sec. 4. 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, *upon payment of the filing fee therefor*, 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, *upon payment of the filing fee therefor*, 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 \$75.00 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 giving of any bond whatever."

Sec. 3. Procedure for dismissal.—That Section 5 of Chapter 525, General Laws 1921, be and the same is hereby amended so as to read as follows:

"Sec. 5. (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 \$75.00, and the judge is satisfied that said counter-claim 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 \$75.00 or less, or if said judge is of the opinion that the counter-claim if any, therein in excess of \$75.00 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 counter-claim 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.

(b) 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. 4. Removal of cause to municipal court for trial and procedure.—That Section 7 of Chapter 525, General Laws 1921, be and the same is hereby amended so as to read as follows:

"Sec. 7. (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 *by jury or by the court without a jury*, 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 *for trial by court or jury* 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), *when said demand for removal is for trial by court; three dollars and fifty cents (\$3.50) when a jury of six is demanded, or five dollars and fifty cents (\$5.50) when a jury of 12 is demanded for fees and costs in said municipal court. If the mov-*

ing party fails to demand a jury and the adverse party or parties or any of them desire a trial by jury, they shall within five days from the service of the demand for the removal upon them, file a written request therefor with the judge of conciliation court and pay to the judge for a jury fee the sum of two dollars (\$2.00) if a jury of six is desired, or four dollars (\$4.00) if a jury of 12 is desired. If a jury is not demanded as above provided the jury shall be deemed to have been waived by both parties.

(b) . Within ten days after all of said things have been done said conciliation judge shall deposit said \$1.50 if a court case or said \$3.50 if a case for a jury of six, or said \$5.50 if a case for a jury of 12, 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 of the conciliation court and all proceedings thereunder shall be stayed pending said appeal and said case shall be pending in the municipal court and shall be by the clerk set down for trial on the first court or 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) *When said case is called for trial and the party so appealing appears for trial, the court shall then enter an order vacating the judgment of the conciliation court and said case shall proceed to trial; in case the party so appealing does not appear the stay shall be vacated and the appeal dismissed. If the judgment creditor remove said case and the final judgment rendered is not increased in his fa-*

vor, 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."

Approved April 24, 1929.

CHAPTER 347—H. F. No. 970

An act defining and regulating the practice of massage in the State of Minnesota, providing for examination and licensing of persons to practice massage, by the State Board of Medical Examiners, providing for the enforcement of the provisions of this act, prescribing penalties for the violation of the provisions thereof, and repealing Chapter 69, General Laws 1927.

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

Section 1. **Definitions.**—As used in this act, the term "massage" shall mean the method, art or science of treating the human body for hygienic or remedial purposes exclusively, by rubbing, stroking, kneading, tapping or rolling the same with the hands, or by rubbing, stroking, kneading, tapping or rolling the body with any other agency or instrumentality for the purpose of relieving, alleviating and reducing affected parts thereof; the term "masseur" shall mean a male person and the term "masseuse" a