

STATUTES AT LARGE
OF THE
STATE OF MINNESOTA.

PART III.

OF THE ADMINISTRATION OF CIVIL JUSTICE.

CHAPTER XXXIX.

OF COURTS OF GENERAL JURISDICTION.

TIT. I.

SEC.

1. The supreme court, powers of.
2. Has power to carry into execution its judgments, etc.
3. Shall give decision in writing—judgment to be entered, when.
4. Shall file syllabus in each decision, and cause same to be published.
5. Power of each judge in vacation to issue process.
6. Terms of court.
7. Absence of two judges, judge present to adjourn.
8. Absence of all, clerk to adjourn.
9. Special term may be called.
10. Failure or continuance of term, causes to stand over.
11. Reporter to take oath and give bond.
12. His powers and duties.
13. Copyright—state to purchase number of volumes—price.
14. Distribution of reports.
15. Salaries of judges.
16. Of clerk and reporter.

TIT. II.

17. District court has original jurisdiction in civil cases.
18. Original jurisdiction in equity.
19. Power to issue writs and processes.
20. Judge shall not try cause in which he is interested.
21. Judge of one district shall discharge duties of judge in another district, when.
22. No judge to practice as attorney, etc.
23. Court not to be open on Sunday—exception.
24. Judge unable to hold term, clerk to notify governor.
25. Judge not attending, sheriff or clerk to adjourn.
26. Persons bound to appear at term not held to appear at next.

VOL. II.

SEC.

27. Process shall not abate by reason of vacancy or change in office of judge.
28. Process to be tested.
29. Process to be sealed, etc.
30. To be indorsed with name of attorney.
31. Judge of court may adjourn the same, hold adjourned terms, appoint special terms, and direct jurors to be drawn and summoned.
32. May appoint place of holding, when.
33. May order special service, when.
34. Deputy sheriffs attending court, number and pay.
35. Compensation of jailers, how determined.
36. Of general terms.
37. In first district.
38. In second district.
39. In third district.
40. In fourth district.
41. In fifth district.
42. In sixth district.
43. In seventh district.
44. In eighth district.
45. In ninth district.
46. In tenth district.
47. Judge may hold court in county for which general terms are not provided.
48. Title of court in counties attached to others.
49. Duty of county commissioners in selection of jury.
50. Actions not to be affected by this change.
51. Power of judge under this act.
52. Vacancies, how filled.
53. Prisoners, to whom delivered.
54. Expenses.
55. Acting board of county commissioners.
56. Duty of judge in counties detached in appointment of clerk.
57. Pleading, writs, etc., filed, where.
58. Duty of secretary of state.
59. Of counties attached to others for judicial purposes.
60. Of salary of district judges.

TIT. III.

- SEC.
 61. Establishment of court of common pleas in Ramsey county.
 62. Shall have seal—where court to be held—how expenses to be defrayed.
 63. Proofs, how tested.
 64. Recognizances to be made returnable to said court.
 65. Appeals from justice court, when made to.
 66. County attorney to be prosecuting attorney—same laws to govern district court and court of common pleas.
 67. Duties and powers of sheriff.
 68. Change of venue.
 69. Removal of causes to supreme court.
 70. Terms of court.
 71. Absence of county attorney, how provided for.

SEC.

72. Salary of judge—how elected—term of office.
 73. Vacancy in office of judge, how filled.
 74. Establishment of common pleas court in Hennepin county.
 75. Seal of court and place of holding court.
 76. Process, how tested.
 77. Recognizance, etc., how returned.
 78. Appeals, how taken.
 79. Prosecuting attorney for the county.
 80. Duties of the sheriff.
 81. Duties of the county commissioners.
 82. Changes of venue.
 83. Removal of causes to supreme court.
 84. Terms of court.
 85. Relating to county attorney.
 86. Salary of judge, term of office, and election.
 87. Vacancy in the office.

TITLE I.

OF THE SUPREME COURT.

ARTICLE I.

CONSTITUTION OF COURT.

Vide sections 1, 2, 3, 6, and 11 of article vi. of state constitution.

ARTICLE II.

ITS POWERS AND JURISDICTION.

(This Article is Chapter LXIII. of the Statutes of 1866.)

SECTION 1. *Powers of supreme court.*—The supreme court has power to issue writs of error, certiorari, mandamus, prohibition, and all other writs and processes, not especially provided for by law, to all courts of inferior jurisdiction, to corporations and to individuals, that are necessary to the furtherance of justice and the execution of the laws.

Vide Act of March 5, 1869 (S. L. 1869, 95). *Ames v. Boland*, 1 Minn. 366; *Harkins v. Board of Supervisors of Scott Co.*, 2 Minn. 243; *Rathburn v. Moody*, 4 Minn. 364; *Crowell v. Lambert*, 10 Minn. 369.

SEC. 2. *Has power to carry into execution its judgments, decrees, etc.*—Said court is vested with full power and authority necessary for carrying into complete execution all its judgments, decrees, and determinations in the matters aforesaid, and for the exercise of its jurisdiction as the supreme judicial tribunal of the state; and shall, by order made at general or special term, from time to time make and prescribe such general rules and regulations for the conduct and hearing of causes in said court, not inconsistent with the statute law of the state, as it may deem proper; and the said court shall by order prescribe the manner of publication, at the expense of the state, of such rules and regulations, and the same shall not be in force until thirty days after the publication thereof.

SEC. 3. *Shall give decision in writing.*—The said court shall, in all cases decided by it, give its decision in writing, which shall be filed with the clerk of said court, with the other papers in the case. Decisions in cases heard at a general

term may be filed in vacation, and judgment entered thereon in pursuance of the finding and order of the court, with the same effect as upon decisions made and filed in term.

SEC. 4. *Court shall file syllabus of each decision, and same shall be published.*—Said court at the time of announcing the decision in every action pending in said court, shall file with the clerk thereof a syllabus of the decision in such action, so prepared as to embody as briefly as practicable the principles settled in and by such decision, and said clerk immediately thereafter shall make and furnish to the publishers of each of the daily papers in the city of St Paul, who consent to publish the same without charge, a copy of each syllabus so filed, accompanied with the title of the action.

SEC. 5. *Power of each judge in vacation to issue process.*—Any one of the judges of the supreme court has power in vacation to issue any of the writs or processes which the said court is allowed by law to issue.

SEC. 6 (AS AMENDED BY ACT OF FEBRUARY 24, 1872). *Terms of supreme court.*—There shall be two general terms of the supreme court held at the seat of government of the state, one on the first Tuesday in April and one on the first Tuesday in October.

S. L. 1872, 104.

SEC. 7. *Absence of two judges, the judge present shall adjourn.*—If any two judges of said court shall not attend on the first or any other day of the term, the clerk shall enter such fact on record, and the judge present shall adjourn the court to the next day, and so on from day to day for six days, if neither of the absent judges appear; at the end of which period said court shall be adjourned, and all matters pending therein shall stand continued until the next regular or special term.

SEC. 8. *Absence of all the judges, clerk may adjourn.*—If neither of the judges appear, the clerk of said court may adjourn from day to day, as provided in the preceding section.

SEC. 9. *Special term may be called.*—Whenever from any cause, it appears to the judges of said court, or any two of them, that the public interests require that a special term of the said court be held, the said judges, or any two of them, have authority to appoint a special term, giving twenty days' previous notice thereof, by advertisement published in a newspaper at the seat of government of the state.

SEC. 10. *Failure or continuance of term, causes to stand over.*—Whenever there is no general term of said court at the time fixed therefor by law, for any cause, or whenever there is a continuance of the term of said court, or a change in the time of holding any term by act of the legislature, all causes then upon the calendar of said court, all writs, recognizances, appeals, and proceedings commenced, taken, or made returnable to said court at said term, shall stand over to and be heard at the next general or special term, with like effect as if no such failure, continuance, or change had occurred.

ARTICLE III.

SUPREME COURT REPORTER.

(This Article is Chapter XXVII. of the Statutes of 1866.)

SEC. 11. *Reporter to take oath and give bond.*—The reporter of the supreme court shall take the oath required by law, and shall execute a bond to be approved

by the governor in the sum of five hundred dollars, conditioned for the faithful performance of the duties of his office.

SEC. 12. *His powers and duties.*—The reporter shall make careful and accurate reports of all cases argued and decided by the supreme court. He shall be entitled to the possession of the original files in all cases for a reasonable time to prepare copies for publication, and shall report the cases more or less at large, according to their relative importance. The report of each case shall contain concise notes of the points decided, a statement of the facts taken from the record, when the same are not fully given in the opinion of the court, the names of the counsel with the points made and authorities cited (more or less at length in the discretion of the reporter), and the opinion of the court. He shall publish a volume of such reports as often as there is sufficient matter to form a volume of not less than six hundred pages. All volumes hereafter published shall bear the uniform title of "Minnesota Reports."

SEC. 13. *Copyright—state to purchase—number of volumes, price.*—The reporter of each volume shall print and bind the same at his own expense, he shall have and retain the exclusive copyright thereof as his own property, and the state shall purchase from him two hundred volumes of each edition, bound in the ordinary style of law reports, at the sum of six dollars per volume.

SEC. 14. *Distribution of reports.*—Of the two hundred copies deposited with the secretary of state, as above provided, the following state officers shall be entitled to one copy of each volume, to wit: the several judges of the supreme and district courts, the attorney general, the judges of probate of the several counties. A sufficient number shall be sent as exchanges to the several states of the union by the secretary, and the balance deposited with the state librarian.

ARTICLE IV.

OF SALARIES OF JUDGES.

SEC. 15. *Of judges of the supreme court.*

AN ACT

TO FIX THE SALARIES OF THE JUDGES OF THE SUPREME COURT.

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

Sec. 1. That from and after the passage of this act the salary of each of the judges of the supreme court shall be three thousand dollars per annum.

Sec. 2. That the salary provided for in the preceding section shall begin with the year commencing January 1st, 1867.

Sec. 3. All acts and parts of acts inconsistent herewith are hereby repealed.

Sec. 4. This act shall take effect from and after its passage.

Approved February 9, 1867. S. L. 1867, 144.

SEC. 16. *Of clerk and reporter.*

Vide sec. 83, chapter vi. of part ii., relating to state officers and their salaries.

TITLE II.

OF THE DISTRICT COURTS.

ARTICLE I.

HOW CONSTITUTED.

Vide sections 4, 5, 6, 10, and 12 of article VI. of the State Constitution, *ante*.

ARTICLE II.

POWERS AND JURISDICTION.

(*This Article is Title I. of Chapter LXIV. of the Statutes of 1866.*)

SEC. 17 (1). *Original jurisdiction of district courts in civil actions.*—The district courts of this state have original jurisdiction in all civil actions within their respective districts, when the sum in controversy exceeds one hundred dollars; and in all civil actions of which a justice of the peace has not jurisdiction, whatever the amount in controversy; and the said courts, respectively, have original jurisdiction, to hear and determine all cases of crimes and misdemeanors committed in any county or place within their respective districts, when the punishment exceeds three months' imprisonment, or a fine of more than one hundred dollars, and appellate jurisdiction in civil and criminal cases from courts of probate and justices of the peace, as prescribed by law.

Duel v. Stawke, 2 Minn. 50; *Castner v. Chandler*, 2 Minn. 86; *Irvine v. Barton*, 3 Minn. 73; *Goncolier v. Foret*, 4 Minn. 13; *Agin v. Heyward*, 6 Minn. 110; *Southern Minn. R. R. Co. v. Stoddard*, *ib.* 150; *Cressy v. Gierman*, 7 Minn. 398; *Tierney v. Dodge*, 9 Minn. 166; *Thayer v. Cole*, 10 Minn. 215; *Reynolds v. Steamboat Favorite*, *ib.* 242; *Morin v. Steamboat F. Sigel*, *ib.* 250; *Crowell v. Lambert*, *ib.* 369; *Thayer v. Burney*, 12 Minn. 502; *Warren v. St P. P. R. R. Co.*, 18 Minn. 384.

SEC. 18 (2). *Original jurisdiction in equity.*—The district courts have original jurisdiction in equity, and all suits or proceedings instituted for equitable relief are to be commenced, prosecuted, and conducted to a final decision and judgment, by the like process, pleadings, trial, and proceedings as in civil actions, and shall be called civil actions.

Duel v. Stawke, 2 Minn. 50; *Morrison v. Lowry*, 6 Minn. 319.

SEC. 19 (3). *Power to issue writs and process.*—The said courts in term time, and the judges thereof in vacation, have power to award throughout the state, returnable to the proper county, writs of injunction, *ne exeat*, and all other writs or processes necessary to the perfect exercise of the powers with which they are vested, and the due administration of justice.

Goodrich v. Moore, 2 Minn. 61; *Moss v. Pettengill*, 3 Minn. 217; *Hart v. Marshal*, 4 Minn. 294; *Armstrong v. Sanford*, 7 Minn. 49; *Rogers v. Holyoke*, 14 Minn. 220.

SEC. 20 (4). *Judge shall not try cause in which he is interested.*—No judge of any of the courts of record of this state shall sit in any cause in which he is interested, either directly or indirectly, or in which he would be excluded from sitting as a juror.

SEC. 21 (5). *Judge of one district shall discharge duties of judge of another*

district, when.—Whenever a judge of the district court is interested as counsel or otherwise, in the event of any cause or matter pending before said court, in any county of his district, another district judge, in an adjoining district, shall, when thereto requested by said judge, attend and try said cause, and the judge of any district shall discharge the duties of the judge of any other district when convenience or the public interest requires it; and whenever a district judge is a party or otherwise interested in any cause, another district judge in an adjoining district shall, within his district, transact any *ex parte* business, hear and determine motions and grant orders in such causes when brought before him, which acts shall have the same force as if done in the district in which such actions are pending.

SEC. 22 (6, AS AMENDED BY ACT OF FEBRUARY 14, 1867). *No judge to practice as attorney.*—No judge of any of the courts of record in this state, judges of probate courts excepted, shall practise as an attorney or counselor at law except in a cause in which he is a party in interest, nor shall he receive any fees for any legal or judicial services other than those prescribed by law; nor shall he be the partner of any practising attorney in the business of his profession. Each of the judges of the several district courts shall reside permanently within their respective judicial districts during their term of office.

S. L. 1867, 133.

SEC. 23 (7). *Court not to be opened on Sunday—exception.*—No one of the courts of this state shall be opened for any purpose on Sunday, other than to receive a verdict, or discharge a jury; but this section shall not in any wise prevent the judges of any of said courts exercising jurisdiction, in any case where it is necessary for the preservation of the peace, the sanctity of the day, or for arresting and committing an offender.

SEC. 24 (8). *Judge unable to hold term, clerk to notify governor.*—In case any judge of a district court, from sickness or any other cause, is unable to hold any of his courts, the clerk thereof shall in due time give notice of such fact to the governor, who shall assign to one of the other district judges to hold the courts in such district until the inability of the judge is removed.

SEC. 25 (9). *Judge not attending, sheriff or clerk to open and adjourn, etc.*—In case the judge of any district court does not attend at the place of holding the same, by four o'clock in the afternoon on the first day of the term, the sheriff or clerk shall forthwith open and adjourn the same until nine o'clock in the forenoon of the succeeding day; and if the said judge does not then appear, the court shall again be adjourned until nine o'clock of the next day, and if the judge does not then appear, it shall be adjourned without day, and the jury dismissed by one of said officers.

SEC. 26 (10). *Persons bound to appear at term which is not held, to appear at next term.*—All persons bound by recognizance or otherwise, to appear at any court, the term whereof is not held, are bound to appear at the next succeeding general or special term, and when the time of holding any court is changed, such persons are bound to appear at the term as so changed.

SEC. 27 (11). *Process shall not abate by reason of vacancy or change in office of judge.*—No process, proceeding, or writ, civil or criminal, before any of the said courts, shall abate or be discontinued by reason of any vacancy in the office, or change of any judge, or of holding said court, but shall be proceeded in as if the said vacancy or change had not occurred.

SEC. 28 (12). *Process to be tested.*—All writs or processes issuing from or out of any of the said district courts shall be tested in the name of the presiding judge thereof.

SEC. 29 (13). *Process to be sealed, etc.*—In all cases where by the statutes of this state any writ or process is required to be issued out of any of the courts of record, the same shall be sealed with the seal of the court, dated on the day on which it issued, signed by the clerk, and made returnable on the first day of the term succeeding its date when no other time is fixed by law, or allowed by the rules or practice of the court for the return thereof.

SEC. 30 (14). *Process shall be indorsed with name of attorney.*—All writs or processes issuing from or out of said courts shall, before the delivery thereof to the officer whose duty it is to serve the same, be indorsed by the clerk with the name of the attorney or other person demanding the process.

SEC. 31 (15). *Judge of court may adjourn the same, hold adjourned terms, appoint special terms, and direct jurors to be drawn and summoned.*—The judge of any district court may adjourn the same from time to time during any term thereof, hold adjourned terms of said court at any time he may deem proper, or appoint special terms in any county of his district, for the trial of civil and criminal cases and issues of law, giving twenty days' previous notice thereof, by advertisement, published four successive weeks in a newspaper printed in the said county, if there is one, if not, in a paper published at the capital, and also by posting a notice thereof on the door of the place for holding the court, in the county in which said term is to be held; and may direct grand and petit jurors to be drawn and summoned for any adjourned or special term in the manner prescribed by law. Special terms may also be appointed by said judge for the hearing of issues of law, applications, motions, and all matters, except the trial of issues of fact, by causing an order appointing said term to be made on the court journal of the county, and a copy thereof to be posted in the office of the clerk of the county for three successive weeks prior to the time of holding the same.

SEC. 32 (16). *May appoint place of holding court, when.*—Whenever the court house, or place of holding court, in any county, is destroyed, unsafe, unfit, or inconvenient for the holding of any court, or if no court house is provided, the judge of the district may appoint some convenient building in the vicinity of the place where the court is required to be held as a temporary place for the holding thereof.

SEC. 33 (17). *May order special service, when.*—Whenever at any term of any district court there is a deficiency of jurors, the court may order a special venire to issue to the sheriff of the county, commanding him to summon from the county at large a number therein named of competent persons to serve as jurors for the term or for any specified number of days. If at any term of such court there is an entire absence of jurors of the regular panel, whether from an omission to draw or to summon such jurors or because of a challenge to the panel, or from any other cause, the court may in like manner order a special venire to issue to the sheriff of the county, commanding him to summon from the county at large a number therein named of competent persons to serve as jurors during the term.

State v. Maloney, 1 Minn. 347; *Dayton v. Warren*, 10 Minn. 233.

SEC. 34 (ACT OF FEBRUARY 27, 1873). *Deputy sheriffs attending court, their number and pay.*—On or before the holding of any term of the district courts, or

courts of common pleas, of this state, the judge thereof shall determine and fix by his order the number of deputies which shall be necessary for the sheriff of that county to have in attendance upon such term of court; and thereupon such sheriff shall designate and appoint such deputies. Such deputies, appointed as aforesaid, shall be paid their per diem, to be determined by the court, for attendance upon such court in the same manner as provided by law for the payment of grand and petit jurors.

SEC. 35 (2 *ib.*) *Compensation of jailers, how determined and paid.*—The judge of the district court for each county shall also determine, from time to time, the compensation that shall be allowed for the services of a jailer, or turnkey, in the county jail; which compensation shall be paid monthly out of the county treasury upon the warrant of the county auditor. Such jailer or turnkey to be appointed by the sheriff of such county, subject to the approval of the judge.

S. L. 1873, 163.

ARTICLE III.

OF JUDICIAL DISTRICTS.

Vide Title III. Chapter II. Part II. of Civil Divisions.

ARTICLE IV.*

OF GENERAL TERMS.

(*This Article is Title III. of Chapter LXIV. of the Statutes of 1866.*)

SEC. 36 (25). The general terms of the district court shall be held in each year at the times and places following:—

SEC. 37 (25, ACT OF MARCH 1, 1873). In the first judicial district—In the county of Goodhue on the first Tuesday in May and the second Tuesday in December in each year. In the county of Dakota on the third Tuesday in January and the third Tuesday in June in each year. In the county of Washington on the fourth Tuesday in May and the second Tuesday in November in each year. In the county of Pine on the first Tuesday in October in each year. In the county of Chisago on the third Tuesday in October in each year.

S. L. 1873, 193. *Vide* also for prior changes, S. L. 1872, 105; S. L. 1869, 65, 66; S. L. 1868, 143, 145; S. L. 1867, 150, 151; S. L. 1866, 53.

SEC. 38 (26, SEC. I OF ACT OF FEBRUARY 27, 1868). In the second judicial district—In the county of Ramsey on the first Tuesday of May and the first Tuesday of December in each and every year.

S. L. 1868, 141. *Vide* also S. L. 1868, 140.

SEC. 39 (27, ACT OF JANUARY 23, 1873). In the third judicial district—In the county of Olmsted on the first Monday in March and the second Monday in September of each year. In the county of Winona on the first Monday in April and the second Monday in October of each year. In the county of Wabasha on the second Monday in May and the second Monday in November of each year.

S. L. 1873, 194. For prior changes *vide* S. L. 1872, 106; S. L. 1869, 67; S. L. 1867, 150.

* Since the Statutes of 1866 the number of judicial districts have been increased from seven to ten, *vide* S. L. 1870, 149, and S. L. 1872, 111. The general terms have been changed repeatedly. They are found in this article as they at present exist.

SEC. 40 (28, ACT OF FEBRUARY 5, 1873). In the fourth judicial district—In the county of Hennepin on the third Tuesday in May and the third Tuesday in November. In the county of Wright on the first Tuesday in March and the second Tuesday in October. In the county of Meeker on the third Tuesday in March and the third Tuesday in October. In the county of Kandiyohi on the fourth Tuesday in March and the third Tuesday in September. In the county of Anoka on the second Tuesday of January. In the county of Isanti on the first Tuesday in October.

S. L. 1873, 195. For prior changes *vide* S. L. 1871, 141, 142; S. L. 1870, 154, 168.

SEC. 41 (29, ACT OF MARCH 6, 1873). In the fifth judicial district—In the county of Waseca on the second Tuesday in February and the third Tuesday in October. In the county of Dodge on the first Monday in March and first Tuesday in October. In the county of Rice on the first Tuesday in May and the second Tuesday after the first Monday in November. In the county of Steele on the first Tuesday in June and first Tuesday in December.

S. L. 1873, 197. For prior changes *vide* S. L. 1871, 140.

SEC. 42 (30). In the sixth judicial district—In the county of Blue Earth on the third Tuesday in May and the first Tuesday in December in each year.

Act of February 29, 1868 (S. L. 1868, 142).

In the county of Faribault on the first Tuesday in June and the first Tuesday in January in each year.

Act of March 5, 1870 (S. L. 1870, 152).

In the county of Jackson on the fourth Tuesday in June of each year; and in the county of Martin on the fourth Tuesday in January of each year.

Act of March 1, 1871 (S. L. 1871, 144).

In the county of Cottonwood on the second Tuesday in March of each year.

Act of March 6, 1873 (S. L. 1873, 203).

In the county of Nobles on the first Tuesday in March of each year.

Act of February 27, 1873 (S. L. 1873, 202).

In the county of Watonwan (at Madelia) on the second Tuesday in February of each year.

Act of March 6, 1871 (S. L. 1871, 143).

SEC. 43 (31, ACT OF FEBRUARY 17, 1873). In the seventh judicial district—In the county of Sherburne on the second Tuesday of February in each year. In the county of Stearns on the second Tuesday of June and the first Tuesday of December in each year. In the county of Douglass on the first Tuesday of October in each year. In the county of Pope on the second Tuesday of October in each year. In the county of Morrison on the third Tuesday of October in each year. In the county of Crow Wing on the fourth Tuesday of April and the fourth Tuesday of October in each year. In the county of Ottertail on the third Tuesday of November in each year. In the county of Becker on the second Tuesday of November in each year. In the county of Benton on the last Tuesday of November in each year. In the county of St Louis on the second Tuesday of August and the third Tuesday of February in each year. In the county of Mille Lacs on the last Tuesday of September in each year.

S. L. 1873, 197.

In the county of Todd on the third Tuesday in December in each year.
Act of February 21, 1873 (S. L. 1873, 207).

In the county of Wilkin on the second Tuesday in May in each year.
Act of February 24, 1873 (S. L. 1873, 206).

In the county of Clay on the first Tuesday in May in each year.
Act of February 21, 1873 (S. L. 1873, 205).

In the county of Carlton on the first Tuesday in August in each year.
Act of February 29, 1872 (S. L. 1872, 109).

In the county of Stevens on the third Tuesday of June in each year.
Act of February 28, 1872 (S. L. 1872, 160). For prior changes *vide* S. L. 1871, 145-148; S. L. 1870, 156; S. L. 1868, 147.

SEC. 44 (ACT OF FEBRUARY 26, 1872). In the eighth judicial district—In the county of Le Seur on the first Monday of March and the first Monday in September in each year. In the county of Sibley on the third Monday in March and the third Monday in September in each year. In the county of McLeod on the third Monday of June and the third Monday of December in each year. In the county of Scott on the first Monday of June and the first Monday of December in each year. In the county of Carver on the first Monday in April and the first Monday in October in each year.

S. L. 1872, 110.

SEC. 45 (ACT OF FEBRUARY 20, 1873). In the ninth judicial district—In the county of Nicollet on the fourth Tuesday in May and on the second Tuesday in December in each year. In the county of Brown on the first Tuesday in May and on the third Tuesday in November in each year. In the county of Redwood on the second Tuesday in September in each year. In the county of Renville on the third Tuesday in September in each year. In the county of Chippewa on the second Tuesday in June in each year.

S. L. 1873, 198. For prior changes *vide* S. L. 1868, 148.

SEC. 46 (ACT OF MARCH 1, 1873). In the tenth judicial district—In the county of Freeborn, on the third Tuesday in June and the first Tuesday in December. In the county of Mower on the third Tuesday in March and the third Tuesday in September. In the county of Fillmore on the first Tuesday in June and the second Tuesday in November. In the county of Houston on the first Tuesday in May and the fourth Tuesday in October.

S. L. 1873, 199. *Vide* also S. L. 1872, 107, 111.

SEC. 47 (32). *Judge may hold court in county for which general terms are not provided—shall cause notice to be given.*—The judge of any judicial district may hold a term of court in any county in his district, for which general terms are not provided by law, whenever in his discretion any such term may be expedient and required to promote the ends of justice; and in such cases he shall cause the same notice to be given, and shall possess the same powers as are herein prescribed, with reference to special terms; and whenever any such term or any special term is appointed to be held in any county by the district judge, he shall cause the order therefor, and the order directing the summoning of grand and petit jurors, if any, to be filed in the office of the clerk of the district court in such county, who shall file an attested copy thereof in the office of the county auditor, and deliver a like attested copy to the sheriff of such county.

SEC. 48 (1, ACT OF MARCH 9, 1867). *Title of district court in counties attached to others for judicial purposes.*—In all cases where one or more counties are attached to another for judicial purposes, the title of the district court for such counties shall hereafter be : The state of Minnesota, district court for such judicial district, counties of and (naming all the counties for which a common place for holding terms of the district court is by law provided), and the clerk of the district court, sheriff, and county attorney of the county in which such court is held, shall perform the duties in said court that would have devolved upon them respectively had it been a court held exclusively for such county.

S. L. 1867, 156.

SEC. 49 (2 *ib.*) *Duty of county commissioners in selection of jurors.*—On the first Monday of April, A.D. 1867, and in January of each year thereafter, the board of county commissioners of each of the several counties of this state, which are now by law attached to another county for judicial purposes, shall meet and select persons properly qualified for grand jurors and petit jurors, and the number of such persons so selected in each county, and all proceedings in the selection of the same, and in the making, signing, attesting, and delivering of the lists thereof, and in the drawing and summoning of grand and petit jurors for such term of the district court for such counties, shall conform to the regulations now provided by law, except that the lists of persons suitable for grand and petit jurors selected in each county shall be delivered to the clerk of the district court of the county in which such court is held, and that the grand jurors shall be drawn by the said clerk from all the names returned by the several counties collectively as those of persons suitable for grand jurors, and that the petit jurors shall in like manner be drawn from the names of those in like manner returned as those of persons suitable for petit jurors, and except also that the sheriff of the county in which such court is held, or his deputy, shall officiate in the summoning of the jurors so drawn in the same manner that he would be required to do provided said court was held exclusively for his own county : *provided*, that in case any counties included within the provisions of section forty-eighth (one of this act) have no board of county commissioners, the board of county commissioners of the county in which such court is held shall select suitable persons from such counties for grand and petit jurors, and the same shall be selected and lists of them made, signed, attested, and delivered as provided above.

SEC. 50 (3 *ib.*) *Actions not to be affected by this change.*—No action or proceeding, civil or criminal, now pending or undetermined in any court, the title of which is changed by the provisions of this act, shall be deemed to be affected or impaired in any manner by such change, but all subsequent proceedings therein shall be conducted and carried on in said court in the same manner as if such action or proceeding had been commenced in said court after the title thereof was changed ; and such court shall also have the same civil and criminal jurisdiction over all the counties for which it is held that it would have had provided its title had not been changed.

S. L. 1867, 156.

SEC. 51 (4 *ib.*) *Power of judge.*—The judge of any district court, the title of which is changed by the provisions of section forty-six, may, whenever he shall consider it to be in furtherance of justice or for the public convenience, order that the place for holding such court may be changed from the county now designated by law as the one in which such court shall be holden, to one of the other counties

embraced in the title of such court, and in such case all the papers, records, books, and other property appertaining to the said court, shall be delivered to the clerk of the district court of the county in which, by the terms of said order, the said court is thereafter to be holden, upon the demand of the said clerk, and all general and special terms of said court shall thereafter be holden in the county designated in the said order for the holding of the same, and the jurisdiction of the court in any action or proceeding pending at the time of the making of said order, or over any crime, misdemeanor, or offense committed either before or after the making of such order, shall not in any way be affected thereby: *provided*, that the said judge may at any time, when he shall deem it expedient, again, in like manner, change the county in which said court shall be holden.

SEC. 52 (5 *ib.*) *Vacancies, how filled.*—In case there is no clerk of the district court in the county to which the holding of the court is changed, as provided for in the preceding section, there shall be deemed to be an original vacancy in the office of the clerk of the district court for such county, which vacancy shall be filled in the same manner and subject to the same qualifications and regulations as are now by law provided for filling vacancies in the office of the clerk of the district court.

SEC. 53 (6 *ib.*) *Prisoners, to whom delivered.*—All prisoners committed for trial for any offenses in any county within the jurisdiction of such court, shall be delivered to the keeper of the common jail of the county in which said court is holden, for safe keeping, and to be produced when called for in the said court.

SEC. 54 (7 *ib.*) *Expenses.*—The expenses of all criminal actions and proceedings shall be charged to and be defrayed by the county in which the crime is charged to have been committed.

SEC. 55 (8 *ib.*) *Acting board of county commissioners.*—In case any of the counties included in the provisions of this act shall have no board of county commissioners, then the board of county commissioners and all the county officers of the county in which such court is holden shall act as the board of commissioners and county officers of such counties in the same manner, and returns from said counties shall be made to and through such officers in the same manner as is now required to be done in fully-organized counties: *provided*, that such board of commissioners shall not have power to levy any greater tax upon said counties than is sufficient to provide for the expenses thereof, including the laying out, opening, and improving of roads and building and repairing of bridges therein.

SEC. 56 (ACT OF MARCH 10, 1873). *Duty of judge in counties detached, in appointment of clerk.*—Whenever any county that heretofore has been or hereafter may be attached to any other county for judicial purposes, heretofore has been or hereafter shall be detached from such county, and provision made for the holding of a general term of the district court in such detached county, it shall be the duty of the judge of the judicial district in which such detached county is situate, within thirty days after receiving notice of the passage of the act detaching such attached county, to appoint a clerk of the district court within and for such detached county, which clerk shall hold his office until his successor is elected and qualified.

S. L. 1873, 201.

SEC. 57 (2 *ib.*) *Pleadings, writs, etc., filed where.*—In all cases where any county or counties are or hereafter may be attached to any other county for judicial purposes, all pleadings, process, writs, recognizances, bonds, and other papers by

law required to be filed in the office of the clerk of the district court, shall be filed in the office of the clerk of such court in the county to which such county or counties are attached for judicial purposes.

SEC. 58 (3 *ib.*) *Duty of secretary of state.*—It shall be the duty of the secretary of state within ten days after the filing in his office of any act of the legislature detaching any county that heretofore has been or hereafter may be attached to any other county for judicial purposes, and providing for the holding of a general term of the district court in such attached county, to notify in writing, the judge of the judicial district in which such detached county is situate, of the passage of such act.

ARTICLE V.

OF COUNTIES ATTACHED TO OTHERS FOR JUDICIAL PURPOSES.

(*This Article is Title IV. of Chapter LXIV. of the Statutes of 1866.*)

SEC. 59 (33). For judicial purposes, to enforce civil rights and criminal justice, the county of Kanabec is attached to the county of Pine.

Act of March 6, 1871 (S. L. 1871, 147).

The county of Lake is attached to the county of St Louis; the counties of Wadena,* Cass, Itasca, and Aitkin, to the county of Crow Wing.

Acts of March 2, 1871 (S. L. 1871, 285), and of February 21, 1871 (G. L. 1871, 162).

The counties of Pembina, Polk, and Beltrami, to the county of Becker.

Act of March 2, 1871 (S. L. 1871, 285).

The county of Grant is attached to the county of Douglass.

Act of March 6, 1868 (S. L. 1868, 150).

The counties of Traverse and Big Stone are attached to the county of Stevens.

Acts of February 28, 1872 (S. L. 1872, 160), and of February 27, 1873 (S. L. 1873, 204).

The counties of Swift and Lac qui Parle are attached to the county of Chippewa.

Acts of February 29, 1872 (S. L. 1872, 112), and March 6, 1873 (S. L. 1873, 205).

The counties of Yellow Medicine and Lyon are attached to the county of Redwood.

Acts of March 6, 1871 (S. L. 1871, 165), and March 10, 1873 (S. L. 1873, 202).

The counties of Murray and Pipestone are attached to the county of Cottonwood.

Act of March 6, 1873 (S. L. 1873, 263).

The county of Rock is attached to the county of Nobles.

Act of February 27, 1873 (S. L. 1873, 203).

And for such purposes all the officers of the counties of Pine, St Louis, Crow Wing, Becker, Douglass, Stevens, Chippewa, Redwood, Cottonwood, and Nobles, necessary to effect the same, shall have and exercise full power, jurisdiction, and authority over, and act in and for the counties respectively attached to said counties, as aforesaid, as fully as if they were part of the same: *provided*, that in all cases where there are officers in and for any county which now is or hereafter may be attached to any other for judicial purposes, such officers shall have and exercise full power and authority over, and act in such county so attached, and when any writ or process is to be served or executed in any county so attached, it may be issued to such county.

Proviso added by Act of March 1, 1873 (S. L. 1873).

* Organized by Act of February 21, 1873 (S. L. 1873, 219).

ARTICLE VI.

SALARY OF DISTRICT JUDGES.

(This Article is Title II. of Chapter VII. of the Statutes of 1866.)

SEC. 60 (AMENDED BY ACT OF FEBRUARY 9, 1867). The salary of each of the judges of the district court is two thousand five hundred dollars per annum.

S. L. 1867, 147.

TITLE III.

OF COURTS OF COMMON PLEAS.

ARTICLE I.

OF RAMSEY COUNTY.*

(This Article is the Act of 1867. S. L. 1867, 272.)

SEC. 61. *Court of common pleas for Ramsey county established—jurisdiction of court, etc.*—There is hereby established in the county of Ramsey a court which is hereby constituted a court of record by the name of the Court of Common Pleas of the County of Ramsey, which shall have equal and concurrent jurisdiction with the district court of the second judicial district in all cases whatsoever. Said court and the judge and clerk thereof shall have the like jurisdiction, authority, and power in all proceedings therein, and perform the same duties as the said district court, and the judge and clerk thereof, except as limited by this act.

SEC. 62 (2). *Shall have a seal.*—Said court of common pleas shall have a seal to be provided by the county of Ramsey, and said court shall be held in such place as shall be provided by said county, and the expenses thereof, except as otherwise provided by law, shall be paid by said county.

SEC. 63 (3). *Process.*—All process of said court shall be listed in the name of the judge thereof.

SEC. 64 (4). *Recognizances, when returnable.*—All recognizances taken before any judge, justice, or magistrate in said county, in criminal cases, may be made returnable to said court of common pleas, and it shall be the duty of the officer taking the same to return all the papers in said criminal cases to the court to which they are returned, and all fines, penalties, and forfeitures had or taken in any such criminal proceedings shall, when collected, be paid over to the treasurer of Ramsey county, to and for the use of said county.

SEC. 65 (5). *Appeals, how made.*—All appeals from the judgments of justices of the peace within said county shall be taken to the said court of common pleas, or to the district court, and like proceedings had thereon as is now provided by law

* This act was amended by Special Laws 1868, 388.

in similar cases in the district court, with like power of removal by appeal or otherwise to the supreme court of the state.

SEC. 66 (6). *Prosecuting attorney.*—The county attorney of Ramsey county shall be the prosecuting attorney of said court, and all laws now in force regulating and defining the duties of prosecuting attorneys in the district courts of the state shall be of like force and application in this said court of common pleas.

SEC. 67 (7). *Duties of sheriff.*—The sheriff of the county of Ramsey shall perform the same duties and have the same powers, and be liable to the same penalties in the said court as in the district court of said county; and the clerk of the district court of the second judicial district in and for the county of Ramsey shall be the clerk of the said court; and the said sheriff and clerk shall be respectively entitled to the like fees in all civil and criminal cases as are now allowed by law for similar services.

Sec. 8 repealed by Act of March 1, 1870 (S. L. 1870, 157); *vide* part vi. of this compilation, *infra*.

SEC. 68 (9). *Changes of venue.*—Changes of venue in all cases, civil or criminal, may be taken from the said court to any district court of the state, to the same extent, and in the same manner as is now provided by law for the change of venue in the several district courts of the state.

SEC. 69 (10). *Certain laws to apply to this court.*—All laws regulating the removal of causes and proceedings from the district court to the supreme court, and the proceedings thereon, shall be applicable to said court of common pleas.

SEC. 70 (11). *Number of terms.*—There shall be two civil terms of said court in each year to be held on the first Tuesdays in the months of September and March, for which trials no grand jurors shall be drawn or summoned, and at which no criminal business shall be transacted. There shall be two terms of said court in each year, to be held on the first Tuesdays of the months of June and December, which shall be exclusively for the transaction of criminal business, and the judge of said court shall have the same power to hold adjourned and special terms thereof, as is now allowed by law to the judges of the several district courts.

SEC. 71 (12). *Absence of the county attorney.*—In case the county attorney shall fail to attend upon said court at any time thereof, his place shall be supplied by a county attorney *pro tem.*, who shall in the meantime receive for his services such compensation as is allowed to the county attorney under the provisions of the law.

SEC. 72 (13). *Salary of judge—term of office.*—The judge of said court shall have the same salary as is or may be provided by law for the judges of the district courts, and which shall be paid in the same manner. The said judge shall be elected by the electors of the county of Ramsey, at the spring election, on the second Tuesday of April 1867, and the term of office of the said judge shall commence on the first day of May succeeding, and continue for the space of seven years, and until his successor is in like manner elected and qualified, and all laws now in force in reference to the qualifications, canvass of the votes and commission of district judge, shall equally apply to the judge of the said court of common pleas.

SEC. 73 (14). *Provide for vacancy.*—In case the office of said judge shall become vacant before the expiration of the term for which he may have been elected, the vacancy shall be filled by appointment by the governor, and the person

so appointed shall hold until his successor shall be elected and qualified. Such successor shall be elected on the second Tuesday of April next, after the occurring of said vacancy: *provided*, the said vacancy shall have occurred more than thirty days previously to the said second Tuesday of April. In case the vacancy shall have occurred within a period of thirty days or less before the said second Tuesday of April, then the election of said judge shall take place and be had on the second Tuesday of April in the year following that in which the vacancy shall have happened. The person so elected to fill such vacancy shall qualify on the first day of May next succeeding his election, and shall hold his office for and during the space of seven years, and until his successor is elected and qualified.

ARTICLE II.

OF HENNEPIN COUNTY.

(*This Article is the Act of March 4, 1872. S. L. 1872, 558.*)

SEC. 74 (1). *Court established—has concurrent jurisdiction with district court.*—There is hereby established, in the county of Hennepin, a court which is hereby constituted a court of record, by the name of the court of common pleas of the county of Hennepin, which shall have equal and concurrent jurisdiction with the district court of the fourth judicial district in all cases whatsoever arising or triable in said county of Hennepin. Said court and the judge and clerk thereof shall have the like jurisdiction, authority, and power in all proceedings therein, and perform the same duties as the said district court and the judge and clerk thereof, except as limited by this act.

SEC. 75 (2). *Seal of, court shall be held, where.*—Said court of common pleas shall have a seal to be provided by the county of Hennepin, and said court shall be held in such places as shall be provided by said county, and the expenses thereof, except as provided by law, shall be paid by said county.

SEC. 76 (3). *Process, how tested.*—All process of said court shall be tested in the name of the judge thereof.

SEC. 77 (4). *Recognizances, etc., how returned.*—All recognizances taken before any judge, justice, or magistrate in said county, in criminal cases, may be made returnable to said court of common pleas, and it shall be the duty of the officer taking the same to return all the papers in said criminal cases to the court to which they are returned, and all fines, penalties, and forfeitures had or taken in any such criminal proceedings shall, when collected, be paid over to the treasurer of Hennepin county to and for the use of said county.

SEC. 78 (5). *Appeals, how taken.*—All appeals from the judgment of justices of the peace within said county shall be taken to the said court of common pleas, or to the district court, and like proceedings had thereon as is now provided by law in similar cases in the district court, with the like power of removal by appeal or otherwise to the supreme court of the state.

SEC. 79 (6). *Prosecuting attorney of said court.*—The county attorney of Hennepin county shall be the prosecuting attorney of said court, and all laws now in force, regulating and defining the duties of prosecuting attorneys in the district courts of the state, shall be of like force and application to the said court of common pleas.

SEC. 80 (7). *Duties of sheriff and clerk.*—The sheriff of the county of Hennepin shall perform the same duties, and have the same powers, and be liable to the same penalties, in the said court as in the district court of said county, and the clerk of the district court of the fourth judicial district in and for the county of Hennepin shall be the clerk of said court; and the said sheriff and clerk shall be respectively entitled to the like fees in all civil and criminal cases as are now allowed by law for similar services.

SEC. 81 (8). *Duties of county commissioners.*—The county commissioners of the county of Hennepin shall, within sixty days after the passage of this act, and at their annual meeting in January in each year thereafter, select from the qualified electors of the county of Hennepin, fifty persons properly qualified, to serve as grand jurors, and one hundred and fifty persons properly qualified to serve as petit jurors, and shall return the same properly certified in the manner provided by law for the drawing grand and petit jurors for the district court, to the clerk of said court of common pleas, who shall keep a record of the same, and from such list the grand and petit jurors of said court shall be drawn, and summoned in the same manner and a like time before the term of said court as is provided by law for drawing and summoning grand and petit jurors for the district court, all laws in relation to re-enlisting, drawing, and summoning grand and petit jurors for district courts, and in relation to their compensation, powers, authority, duties, and proceedings, shall, as far as applicable, apply to jurors in said court of common pleas.

SEC. 82 (9). *Changes of venue.*—Changes of venue in all cases, civil or criminal, may be taken from the said court to any district court, and from any district court of the state to said court of common pleas of the state to the same extent, and in the same manner as is now provided by law for the change of venue in the several district courts of the state.

SEC. 83 (10). *Removal of causes.*—The laws regulating the removal of causes and proceedings from the district court to the supreme court, and the proceedings thereon, shall be applicable to said court of common pleas.

SEC. 84 (11). *Terms of court.*—There shall be two general terms of said court in each year, to be held on the first Tuesday in the months of September and March, for the trial of civil and criminal causes, for which term grand and petit jurors shall be drawn and summoned as provided in section eight of this act, and the judge of said court shall have the same power to hold adjourned and special terms thereof, as is now allowed by law to the judges of the several district courts: *provided*, that whenever the county attorney of Hennepin county shall, at least twenty days before the commencement of any general term of said court, certify in writing to the judge thereof, that in his judgment there will be no business to come before a grand jury at said term, said judge shall, in his discretion be authorized, to direct by order that no grand jurors be drawn or summoned for said term.

SEC. 85 (12). *Relating to county attorney.*—In case the county attorney shall fail to attend upon said court at any term thereof, his place shall be supplied by a county attorney *pro tem.*, who shall, in the meantime, receive for his services such compensation as is allowed to the county attorney under the provisions of law.

SEC. 86 (13). *Salary, etc., of judge.*—The judge of said court of common pleas shall have the same salary as is or may be provided by law for judges of the district courts, and which shall be paid in the same manner. The said judge shall be elected by the electors of the county of Hennepin, at the annual election to be

held in the several election districts in said county, on the first Tuesday after the first Monday in November 1872, and at said annual election of any year when there shall be a vacancy in such office, or next prior to the expiration of any term of said office, and said judge may be voted for at the same time as state and county officers are voted for on that day and on the same ballot, and said votes shall be counted, returned, and canvassed in the same manner (as) now provided by law in case of the election of county officers. The county auditor of Hennepin county shall deliver to the person elected a certificate of his election, which may be filed in the office of the secretary of state, and the person so elected shall thereupon qualify in the same manner as the judge of the district courts. The term of office (of) said judge shall commence on the first day of January next after his election, and continue for the space of five years, and all laws now in force relative to the qualification of district judge shall (apply) equally to the judge of said court of common pleas.

SEC. 87 (14). *Vacancy in the office.*—In case the office of said judge shall become vacant before the expiration of the term for which he may have been elected, the vacancy shall be filled by appointment by the governor, and the person so appointed shall hold until his successor shall have been elected and qualified. Such successor shall be elected on the first Tuesday after the first Monday of November, after the occurring of said vacancy: *provided*, the said vacancy shall have occurred more than thirty days previously to the aforesaid Tuesday of November. In case said vacancy shall have occurred within a period of thirty days or less before the said Tuesday of November, then the election of said judge shall take place and be had on the first Tuesday after the first Monday of November in the year following that in which the vacancy shall have happened. The person so elected to fill such vacancy shall qualify on or before the first day of January next succeeding his election, and shall hold his office for and during the space of five years, and until his successor is elected and qualified.

Sec. 15 provides for the appointment of judge by the governor to hold office until January 1st, 1873.