

REVISED LAWS

MINNESOTA

1905

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CHAPTER 5

JUDICIAL DEPARTMENT

SUPREME COURT

69. Number of justices—General terms—The supreme court shall consist of one chief justice and four associate justices, who shall hold two general terms of said court each year, at the seat of government, beginning on the first Tuesday in April and October, respectively. (4822, 4828)

70. Special terms—Adjournments—Quorum—Special terms may be held whenever the court shall so direct, but three weeks' published notice of the order appointing the same shall be given at the seat of government. Any term may be continued from time to time by orders announced in court and entered in the minutes. Any three justices may hold the court and exercise its powers. Unless three shall attend at the time for opening court, those present, or, if all be absent, the clerk, shall adjourn the court until the following day; but, if three justices be absent for six consecutive days, the court shall stand adjourned without day. (4829-4831)

71. Pending cases continued—Whenever a term is adjourned, or there is a failure for any reason to hold a term at the appointed time, all causes then on the calendar, and all writs, recognizances, appeals, and proceedings taken or made returnable to the court at such term, shall stand over to, and be heard at, the general or special term next ensuing, as if no such adjournment or failure had occurred. (4832)

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72. Powers concerning writs and processes—The court shall have power to issue to all courts of inferior jurisdiction, and to all corporations and individuals, writs of error, certiorari, mandamus, prohibition, quo warranto, and all other writs and processes, whether especially provided for by statute or not, that are necessary to the execution of the laws and the furtherance of justice. It shall be always open for the issuance and return of such writs and processes, and for the hearing and determination of all matters involved therein, subject to such regulations as it may prescribe. Any justice of the court, either in vacation or in term, may order the writ or process to issue, and prescribe as to its service and return. (4823, 4827)

Power to issue writ of certiorari (13-508, 468; 86-301, 303, 90+772; 44-244, 46+349); to issue writ of mandamus (28-40, 8+899); to issue writ of quo warranto (27-38, 6+408; 40-213, 41+1020; 48-497, 51+613; 58-275, 277, 59+1015; 69-108, 112, 71+910; 104+948).

73. General powers—Rules—Such court shall have all the authority necessary for carrying into execution its judgments and determinations, and for the exercise of its jurisdiction as the supreme judicial tribunal of the state, agreeable to the usages and principles of law; also to prescribe, and from time to time amend and modify, rules of practice therein, not inconsistent with the law, and to provide for the publication thereof at the cost of the state. (4824)

74. Decisions—Headnotes—Copies—In all cases decided by the court, it shall give its decision in writing, and file the same with the clerk, together with headnotes, briefly stating the points decided. A copy of such headnotes shall be furnished by the clerk, without charge, to such proprietors of daily newspapers as may desire them for free publication. Decisions may be rendered and judgments entered thereon in vacation as well as in term. (4826)

CLERK

75. Bond—Deputy—Assistants—The clerk of the supreme court shall give bond to the state in the sum of one thousand dollars, to be approved by the governor, conditioned for the faithful discharge of his official duties. He may appoint a deputy clerk, who shall perform his duties whenever he is absent or disabled, and for whose acts he shall be held responsible. He may

also employ, from time to time, necessary additional assistants, and fix their compensation; but no such employment shall be at the cost of the state unless an appropriation therefor shall have been made. (374, 375, 377)

76. Records, books, supplies, etc.—The clerk shall keep such dockets, journals, and other records, and perform such duties appropriate to his office, as the supreme court may by its rules prescribe. And he shall provide at the cost of the state all books, stationery, furniture, postage, and supplies necessary for the proper transaction of the business of the court. (376, 377)

MARSHAL

77. Appointment, duties, etc.—A marshal of the supreme court may be appointed by the justices thereof to act during their pleasure. His qualifications, duties, and powers shall be such as the court may prescribe conformably to the laws. (7956, 7961, 7968)

STATE LIBRARY

78. Justices to govern library—Rules, etc.—The state library, as now constituted, with all future additions thereto, shall be maintained in the capitol under the supervision of the justices of the supreme court. They shall direct such purchases of books, pamphlets, and documents therefor, and such sales and exchanges therefrom, as they may deem best. They shall also adopt rules for the government of the library and the management of its affairs, and prescribe penalties for their violation, which rules shall be conspicuously posted in the library rooms. ('03 c. 272 ss. 1, 5)

79. Librarian and assistants—Bond—The official term of the state librarian appointed by the governor shall be two years and until his successor qualifies. He shall give bond to the state in at least two thousand dollars, to be approved by the governor, conditioned for the faithful performance of his official duties. He may appoint an assistant librarian to serve during his term, who shall perform his duties when he is absent or disabled, but such appointment shall not take effect until approved by the justices. He may also employ, from time to time, with the approval of the justices, such clerical and other assistants as may be necessary, and for whose compensation provision shall have been made by law. ('03 c. 272)

80. Duties of librarian—The librarian shall have charge of the library rooms and property, and attend, under the direction of the justices, to all purchases, exchanges, and sales; and the public printer shall forward such public documents of the state as the librarian may desire to send to designated institutions and officials of other states for purposes of exchange. He shall obey and enforce the rules prescribed for the government of the library and its affairs, and collect, by action in his name if necessary, all damages from injury to or retention of library property, and all fines imposed for violation of the rules. ('03 c. 272)

81. Records and accounts—Receipts—He shall keep a detailed chronological record of all purchases, exchanges, and sales, and of all additions to the library by gift, purchase, or exchange, respectively; also a like account of all amounts collected as damages, fines, or from other sources, and of all expenditures made. Such records and accounts shall be open to public inspection, and be transferred to his successor. All moneys collected shall be paid into the treasury, and added to the library appropriation for the current year. ('03 c. 272 ss. 4, 7)

82. Public documents—All official publications of the United States, and of other states and countries, which are received for the use of this state by any officer thereof, shall be deposited in the state library forthwith; and two copies of each official book or pamphlet issued by the state shall be preserved therein. ('03 c. 272 s. 6)

JANITOR

83. Appointment and duties—The justices may appoint, and at pleasure remove, a janitor, who shall have the care of the courtroom, the rooms of the

clerk and justices of the court, and of the state library, and shall perform such other duties as the justices may require. (7961 subd. 19)

REPORTER

84. Bond—Possession of files—The reporter of its decisions, appointed by the supreme court, shall give bond to the state in the sum of five hundred dollars, to be approved by the governor, conditioned for the faithful discharge of his duties. He shall be entitled to the possession, for a reasonable time, of the files of the court in all cases decided. (2278, 2279; '01 c. 3)

85. Cases, how reported—Citations—He shall accurately report all such cases, noting concisely the points decided, with a statement of the facts as shown by the record, unless the same are fully stated in the opinion; the names of counsel, with the points made and authorities cited, as fully as he deems necessary; and the opinions rendered by the justices. All references in such opinions to former decisions of the court which have been published in "The Northwestern Reporter" shall also cite the volume and page of such reporter where the same appear; and, if the opinion reported has been published in said reporter, the volume and page of such publication shall be cited. (2279; '95 cc. 22, 23; '01 c. 3)

86. Copy, when furnished—Copyright—Within ninety days after the filing of a sufficient number of decisions to make a printed volume of six hundred pages, and sooner if practicable, the reporter shall deliver the manuscript of his report of such cases to the contractor for the publication thereof. As soon as the same is put in type, he shall read and correct the printer's proof, and furnish to the contractor an index, a table of cases, and other matter necessary to complete the volume. He shall have no pecuniary interest in such reports, which shall be copyrighted by the secretary of state in trust for the people. (2281, 2282)

MINNESOTA REPORTS

87. Size and quality of volume—Time—Each volume shall contain at least six hundred pages of four and one-half inches in width, and be printed and bound in style and quality to be approved by the justices of the court, and at least equal to the best of those heretofore published. Each volume shall be furnished ready for use within sixty days after the final manuscript therefor shall have been delivered to the contractor, but the time during which the reporter may retain the proofs for revision shall be excluded from the count. ('03 c. 129; '95 cc. 22, 23)

88. Existing contract to govern—New contract—The publication and sale of such reports shall be conducted under the contract now in force, made pursuant to Laws 1903 c. 129; and when said contract is fully performed, or is otherwise terminated, the secretary of state, unless other provision be made by law, shall proceed under said chapter to make a new contract for the six years next ensuing. (2284-2286)

89. Distribution of copies—From the volumes purchased by the state under such contract, the secretary of state shall furnish copies as follows:

1. One to each judge of the district, probate, and municipal courts of the state, and to each justice of the supreme court.

2. Three to the attorney general.

3. One to each clerk of the district court. All of the foregoing to remain the property of the state, and be delivered to the successors in office of the officials named.

4. Three to the clerk of the United States circuit court of appeals for the eighth circuit, one to be kept for the use of the judges at each of its places of meeting.

5. One hundred to the state university, to be used in exchanges or otherwise for the benefit of its law library.

6. To the state library, as many as the justices of the supreme court shall deem necessary for like purposes.

The copies so furnished to clerks of the district court, when not in use during sessions of the court, shall be kept in their respective offices for the use of

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officials and citizens of the county, and shall not be taken therefrom. The copies not disposed of hereunder shall remain in the custody of the secretary of state. (2280, 2287-2294)

DISTRICT COURT

90. Jurisdiction—The district courts shall have original jurisdiction in all civil actions within their respective districts, in all cases of crime committed or triable therein, in all special proceedings not exclusively cognizable by some other court or tribunal, and in all other cases wherein such jurisdiction is especially conferred upon them by law. They shall also have appellate jurisdiction in every case in which an appeal thereto is allowed by law from any other court, officer, or body. (4833)

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District courts have original jurisdiction of civil actions regardless of the amount in controversy (6-110, 53; 6-503, 350; 7-398, 316; 10-215, 173); and of criminal actions regardless of the punishment (26-148, 1+1054; 36-234, 30+764; 69-499, 72+832). They have original jurisdiction in equity (2-31, 21) and appellate jurisdiction in probate proceedings (72-165, 166, 75+123).

91. Same—Boundary waters—For the purposes of exercising the concurrent jurisdiction of the courts of this state in civil and criminal cases arising upon rivers or other waters which constitute a common boundary to this and any adjoining state, the counties bordering upon such waters shall be deemed to include so much of the area thereof as would be included if the boundary lines of such counties were produced in the direction of their approach and extended to the opposite shore. (4835, 4836)

60-503, 505, 63+100.

See 1905 c. 242

92. Power to issue writs—Such courts shall have power to issue writs of injunction, ne exeat, certiorari, habeas corpus, mandamus, quo warranto, and all other writs, processes, and orders necessary to the complete exercise of the jurisdiction vested in them by law, including writs for the abatement of a nuisance. Any judge thereof may order the issuance of such writs, and direct as to their service and return. (4837, 5985, 5996; '95 c. 25; '97 c. 7)

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50-264, 266, 52+862; 66-213, 215, 68+976; 71-16, 73+521; 72-165, 75+123; 104+948.

93. Writs and processes, how tested, signed, etc.—Every writ or process issuing from a court of record shall be tested in the name of the presiding judge, be signed by the clerk and sealed with the seal of the court, be dated on the day of its issue, and before delivery to the officer for service, shall be indorsed by the clerk with the name of the attorney or other person procuring the same; and, when no other time is fixed by law or authorized by the rules of practice, it shall be made returnable on the first day of the next succeeding term. (4847-4849)

16-426, 383; 20-196, 175; 22-189, 192; 40-65, 70, 41+459; 91-352, 357, 98+188.

94. Judge may act in another district—Whenever, in his judgment, the convenience or interest of the public for any reason shall require it, the governor may designate a judge of the district court to hold, or to assist in holding, a general or special term of such court in any county of a district other than his own, or to try and determine a particular motion, action, or proceeding pending therein. And by consent of the parties, any judge of said court may act in all matters brought before him from another district. In either case the orders and judgments of the judge so acting shall have the same force as though given by a judge of such district. When no other provision has been made therefor, the clerk shall seasonably notify the governor of the inability of the judge to hold any of his terms. (4839, 4843)

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76-391, 392, 79+397.

95. Judge not to practice law—No judge of the district court shall practice as an attorney or counselor at law except in cases in which he is a party in interest, nor receive any fees for legal or judicial services other than as prescribed by law; nor shall he be a partner of any practicing attorney in the business of his profession. (4840)

96. Courts not open Sundays—Exceptions—No court shall be open on Sunday for any purpose other than to receive a verdict or discharge a jury; but this provision shall not prevent a judge of such court from exercising jurisdiction in any case where it is necessary for the preservation of the peace, the sanctity of the day, or the arrest and commitment of an offender. (4841)

55-58, 60, 56+350.

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97. Times of holding general terms—How changed—Until otherwise provided, general terms of the district court shall be held in the several counties at the times prescribed by the statutes in force when the Revised Laws take effect. Thereafter the judges may fix different times in the manner following: Whenever a change is desired in the date or number of terms, the judge or judges of the district, by an order filed with the secretary of state and with the several clerks, in an even-numbered year, and not later than October 1 thereof, shall determine the times of holding such general terms in any or all counties of the district, which order shall be in force throughout the succeeding two calendar years, and until changed by a like order so filed in a subsequent even-numbered year. The secretary of state shall publish, in the volume of laws enacted at each regular legislative session, a schedule of the times of holding court in the several counties as fixed by law or by orders so filed. And whenever a new county is added to any district, the judges, by like order made at any time and filed as aforesaid, may fix the times of holding terms therein; but such order shall not take effect until thirty days after the filing thereof with the secretary of state, nor be altered except as hereinbefore provided.

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98. Absence of judge—Who may act—Exceptions—Whenever the judge who should hear any action, motion, or proceeding is unable to be present, any other judge of the same judicial district may act in his place, except in the trial of causes already begun before the judge so absent: Provided, that motions for a new trial shall be heard by the judge before whom the cause was tried, if he be still in office and not disabled. (4842)

75-289, 77+960.

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99. Adjourned and special terms—The judges of each district may adjourn court from time to time during any term thereof, and may appoint special terms for the trial of issues of law and fact, and, when necessary, direct grand or petit juries to be drawn therefor. Three weeks' published notice of every such special term shall be given in the county wherein it is to be held. They may also appoint special terms for the hearing of all matters except issues of fact, the order for which shall be filed with the clerk, and a copy posted in his office for three weeks prior to such term. (4850)

61-73, 76, 63+171; 64-394, 67+216; 74-448, 451, 77+206.

100. Non-attendance of judge—Adjournment—If the judge fails to attend on the day appointed for holding court, the sheriff or clerk may open court and adjourn the same from day to day; but, if he does not appear by 4 o'clock p. m. of the third day, one of said officers shall adjourn the term without day, and dismiss the jurors: Provided, that such clerk or sheriff, upon the direction of the judge, and without his presence, may adjourn any general or special term to a day certain, in which case the jurors, if any, shall attend on such day without further notice. (4844)

101. Failure to hold term, etc., not to affect writs, etc.—Whenever any term of court is not held, all persons bound by recognizance or otherwise to appear thereat shall appear at the next general term thereof held in the county, or, if a special term be sooner held for the trial of civil and criminal causes, then at such special term. And if the time for holding any such term be changed by adjournment or otherwise, all persons so bound shall appear at the term as changed. No process, proceeding, or writ shall abate or be discontinued by reason of any alteration in the time or place of holding court, or of any vacancy or change in the office of judge. (4845, 4846)

74-345, 351, 77+214.

102. Temporary courthouses—Terms for naturalization—Whenever the courthouse or place provided for holding court in any county is destroyed or becomes unsafe or unfit for the purpose, or if no courthouse be provided, the judges may designate a convenient place at the county seat for temporary use as such. And they may hold general or special terms of the court for the purpose of hearing applications for naturalization, in any place designated by them in the several counties of their respective districts. (4851; '97 c. 361; '99 c. 233)

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103. Special venires for jurors—Whenever at any term there is an entire absence or a deficiency of jurors, 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 order a special venire to issue to the sheriff of the county, commanding him to summon from the county at large a specified number of competent persons to serve as jurors for the term, or for any specified number of days. (4852)

07 103
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Under this section jurors are not "drawn" but simply "summoned," that is, selected by the sheriff from the county at large (61-73, 63+171). The venire does not state the names of the jurors to be summoned but leaves the selection to the sheriff (16-282, 249). Improper for sheriff to inquire as to opinions of jurors and to make selection accordingly (17-76, 54). Deficiency may be due to any cause, as, for example, sickness, death, or challenges to the panel or to individual jurors (16-313, 277). A special venire may be ordered when the whole of the original panel has been discharged (1-347, 257; 17-76, 54); when a challenge to the original panel has been sustained (10-233, 185; 50-123, 52+275; 13-341, 315); or when a portion of the original jurors do not appear (12-538, 448). A grand jury may be summoned by special venire (50-123, 52+275). A second special venire may be ordered on the exhaustion of the first (16-282, 249), or talesmen may be summoned (12-538, 448).

104. Rules of practice—Revision—The judges of the district courts shall annually assemble at the capitol on the first Wednesday after July 4, to revise the general rules of practice in such courts, for which purpose any eighteen of them shall constitute a quorum. When so assembled, such judges may revise and amend such rules as they deem expedient, conformably to law, and the same shall take effect from and after the publication thereof. Such rules, as the same shall be so revised and amended from time to time, shall govern all the district courts of the state; but, in furtherance of justice, they may be relaxed or modified in any case, or a party relieved from the effect thereof, on such terms as may be just. (4886)

71-511, 513, 74+283.

105. Several judges—Division of business, etc.—In districts having more than one judge, the one longest in continuous service, or, if two or more be equal in such service, the one senior in age, shall be the presiding judge thereof. The business of the court may be divided between the judges, and otherwise regulated as they by rule or order shall direct. Each may try court or jury causes separately during the same term and at the same time, or two or more of them may sit together in the trial of any cause or matter before the court. If there be a division of opinion, that of the majority shall prevail. If the division be equal, that of the presiding judge, or, if he be not sitting, that of the judge senior in age, shall prevail. (4854, 4855, 4857, 4869, 4870, 4874, 4880, 4882, 4883)

CLERK

106. Election—Bond—Duties—Not to practice law—There shall be elected in each county a clerk of the district court, who, before entering upon the duties of his office, shall give bond to the county, to be approved by the county board, in a penal sum not less than one thousand dollars nor more than ten thousand dollars, conditioned for the faithful discharge of his official duties: Provided that, in counties having a population of more than two hundred thousand, the amount of such bond shall be twenty-five thousand dollars, which bond, with his oath of office, shall be filed for record with the register of deeds. Such clerk shall perform all duties assigned him by law and by the rules of the court. He shall not practice as an attorney in the court of which he is clerk. (856-858; '95 c. 281)

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Liability on bond (86-188, 90+371).

09 - 107 - 420

107. Money paid into court—Deposited—Where money is paid into court to abide the result of any legal proceedings, the judge, by order, may cause the same to be deposited in some duly incorporated bank, to be designated by him, or such judge, on application of any person paying such money into court, may require the clerk to give an additional bond, with like conditions as the bond provided for in § 106, in such sum as said judge shall order. For receiving and paying over any money deposited with him, the clerk shall be entitled to a commission of one per cent. on the amount deposited, one-half of such commission for receiving, the other for paying, the same to be paid by the party depositing such money. (856)

09 - 108 - 33

108. Deputies—By an instrument in writing, under his hand and seal, and with the approval of the judge indorsed thereon, the clerk may appoint deputies, for whose acts he shall be responsible, and whom he may remove at pleasure. The appointment and oath of every such deputy shall be filed with the register of deeds. (859, 860)

40-65, 70, 41+459.

07 - 109 - 203

109. To search records—Certificate—Public inspection—The clerk, upon request of any person, shall make search of the books and records of his office, and ascertain the existence, docketing, or satisfaction of any judgment or other lien, and certify the result of such search under his hand and the seal of said court; giving the name of the party against whom any judgment or lien appears of record, the amount thereof, and the time of its entry, and, if satisfied, of its satisfaction, and any other entries requested relative to such judgment. But nothing in this section shall prevent attorneys or others from having access to said books and records at all reasonable times. (861)

84-439, 87+1126; 93-11, 100+382.

07 - 110 - 414

110. Books to be kept—Every clerk shall procure, at the expense of his county, and keep, the following books:

1. A register of actions, in which he shall enter the title of each action, whether originally commenced in his said court, or brought there by appeal or transcript of judgment from justice court or from any court of record of the state or the United States, and a minute of each paper filed in the cause, and all proceedings therein.

2. A judgment book, in which every judgment shall be entered.

3. A docket, in which he shall enter alphabetically the name of each judgment debtor, the amount of the judgment, and the precise time of its entry.

4. Indexes, as described in § 111, and such other books as the court, in its discretion, may direct. (861)

19-452, 393; 41-283, 43+3.

07 - 111 - 312

111. Index of records—Every clerk shall keep in separate books a plaintiff's and defendant's index to court records, in which all cases shall be entered in alphabetical order under the name of each plaintiff and defendant. They shall set forth the names of the parties, kind of action, term commenced, the record books and pages on which recorded, the term disposed of, date of judgment, book and page of judgment dockets, execution dockets, fee books, satisfied or not satisfied, and number of case. The defendant's index shall be ruled and printed in the same manner as plaintiff's except that the parties shall be reversed. They shall be ruled and printed substantially as follows:

Plaintiffs	Defendants	Kind of Action	Term Commenced	Record Book	Pages	
Term disposed of	Date of Judgment		Judgment Docket		Satisfied or not Satisfied	Number of Cases
	Month	Day	Book	Page		
			Execution Docket	Fee Book		
			Book	Page	Book	Page

(863)

112. Return in criminal cases to county attorney—The clerk of every court of record having criminal jurisdiction, within ten days after the adjournment of any such court, shall tax the costs or disbursements paid or incurred by the state in the trial of each criminal case tried during such term, enter the amount thereof in the record in each, and forthwith report to the county attorney the amount of such costs and disbursements taxed in each case, the amount of fines imposed, and the amount thereof paid. (807)

113. To enter unregistered cases—Every clerk shall enter upon the proper registers all cases, civil and criminal, which, through a mistake, inadvertence, or neglect of his predecessor in office, have not been registered. The true date of the filings in such cases shall be entered in said registers, and said entries, when so made, shall have the same force and effect as if made by the clerk at the proper time: Provided that, in docketing any judgment, the date thereof shall be the time when actually docketed, and the lien thereof shall attach only from such date. (864)

114. Vacancy—Vacancies in the office of the clerk shall be filled by appointment by the judge. The appointee shall give the bond and take the oath required by law, and shall hold his office until the next general election, and until his successor qualifies. In case any such clerk is adjudged insane, the judge shall appoint a competent person to act as clerk in his place until he shall be duly declared restored to sanity. The person so appointed shall take the oath and give the bond required by law of clerks of the district court, and shall be entitled to the fees and emoluments of the office during the time he shall so act, and his acts shall have the same force and effect as if performed by such clerk. (865; '95 c. 283)

15-198, 153; 64-207, 66+264.

STENOGRAPHIC REPORTERS

115. Appointment—Duties—Bond—Each judge, by duplicate orders filed with the clerk and county auditor of the several counties of his district, may appoint a competent stenographer as reporter of the court, to hold office during his pleasure, and to act as his secretary in all matters pertaining to his official duties. Such reporter shall give bond to the state in the sum of two thousand dollars, to be approved by the judge appointing him, conditioned for the faithful and impartial discharge of all his duties, which bond, with his oath of office, shall be filed with the clerk in the county in which the judge resides. (4887; '99 c. 141 ss. 1, 2)

116. Duties as to reports—Such reporter shall make a complete stenographic record of all testimony given and all proceedings had before the judge upon the trial of issues of fact, with or without a jury, or before any referee appointed by such judge. In so doing, he shall take down all questions in the exact language thereof, and all answers thereto precisely as given by the witness or by the sworn interpreter. He shall also record, verbatim, all objections made, and the grounds thereof as stated by counsel, all rulings thereon, all exceptions taken, all motions, orders, and admissions made, and the charge to the jury. When directed so to do by the judge, he shall make a like record of any other matter or proceeding, and shall read to such judge or referee any record made by him, or transcribe the same, without charge, for any purpose in furtherance of justice. ('99 c. 141 s. 2)

117. Record to be filed—Transcript—As soon as the trial is ended, the reporter shall file his stenographic record thereof with the clerk, or elsewhere if the judge shall so direct, and, upon request of any person interested, and payment or tender of his fees therefor, he shall furnish a transcript of such record in the words and figures represented by the characters used in making the same, and for that purpose he may take and retain such record so long as may be necessary, when it shall be returned to the files. ('99 c. 141 s. 2)

118. To act when another judge presides—Unless otherwise directed by the judge appointing him, the reporter shall serve as such in all matters heard by another judge when acting in place of the former, and shall perform in relation to such matters all the duties required of him by law. ('99 c. 141 s. 3)

07 119 - 242
 09 119 - 168
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119. Salaries—The judges, by an order filed with the county auditors annually on or before the first Monday in January, shall fix the salary of the reporters in their respective districts, and apportion the same among the several counties. Such salary shall not be less than eight hundred dollars nor more than fifteen hundred dollars per year, and each county shall be required by such order to pay a specified amount thereof, in monthly instalments, which amount shall be such proportion of the whole salary as the number of days' work actually done by a reporter in the trial of causes in said county during the preceding year bears to the whole number so performed in the district. ('99 c. 141 s. 4)

07 120 - 186

120. Fees—In addition to such salary, the reporter may charge for a transcript of his record, ordered by any person other than the judge, eight cents per folio thereof, and two cents per folio for each manifold or other copy thereof when so ordered that it can be made with such transcript. ('99 c. 141 s. 4)

121. Existing laws not affected—Nothing in this chapter shall be construed as repealing or modifying existing laws relating to the office of court reporter in any judicial district which contains a city of the first class. ('99 c. 141 s. 6)

SALARIES

07 122 - 175
 09 122 - 252

122. Supreme and district courts—The annual compensation of the judges and other officers of the judicial department hereinbefore named shall be as follows, all to be paid by the state, unless otherwise specified, and in monthly instalments:

1. The justices of the supreme court, five thousand dollars each.
2. The clerk thereof, fifteen hundred dollars; and his deputy, one thousand dollars. And in addition to his salary, the clerk shall receive such fees as are allowed to him by law.
3. Each stenographer, such sum as shall be fixed by the justice appointing him, not exceeding eight hundred dollars.
4. The reporter of said court, three thousand dollars.
5. The marshal thereof, eight hundred dollars.
6. The janitor, nine hundred dollars.
7. State librarian, two thousand dollars; assistant librarian, fifteen hundred dollars; and clerk, nine hundred dollars.
8. Judges of the district court, thirty-five hundred dollars each from the state, and fifteen hundred dollars additional, payable monthly, from each county in their respective districts having a population of seventy-five thousand or more. (375, 530, 531, 7956, 7961, 7968; '99 c. 270; '01 c. 190; '03 cc. 30, 272)

123. Standing appropriation—There is annually appropriated from the treasury the amount necessary to pay the salaries mentioned in § 122; also annually the following amounts: for the contingent fund of the supreme court, seven hundred and fifty dollars; for law library, for the purchase of books, binding and repairs, forty-seven hundred dollars, and for contingent fund, five hundred dollars.

MUNICIPAL COURTS

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124. Existing courts confirmed—The several municipal courts organized, and in the actual exercise of their functions, at the time when the Revised Laws shall take effect, are hereby confirmed; and the jurisdiction thereof, the practice and procedure therein, the tenure and compensation of the judges and other officers thereof, and the taking of appeals therefrom, shall continue in all things to be governed by the laws relating thereto in force at the time of the enactment of said Revised Laws, notwithstanding the repeal thereby of any existing statute. All municipal courts thereafter established, shall be organized and governed under and pursuant to the provisions of this subdivision and not otherwise.

125. New courts, how established—A court of record to be known as "The Municipal Court of," is hereby established in and for every city,

and in and for every incorporated village which has or shall have two thousand inhabitants or more, in which city or village no municipal court shall exist when the Revised Laws take effect; but no court thus established shall be organized until the city or village council so determines by a resolution, adopted by a four-fifths majority of its members, and approved by its mayor or president, providing a suitable place for holding its sessions, prescribing the number of judges and other officials thereof, and fixing their compensation.

126. Application to existing courts—By a like resolution, adopted and approved as specified in § 125, the council of any village, or of any second, third or fourth class city, may adopt the provisions of this subdivision for the future government of the municipal court of such city or village. Thereupon, said court shall in all things be subject to the provisions hereof; but the tenure and compensation of the several officers thereof shall not be curtailed during the terms for which they were chosen, nor shall any action or proceeding then pending therein be discontinued, nor shall any judgment or decision thereof be affected, by such change.

127. Judges—Election—Term—Salary—The judges of such courts shall be elected at the regular city or village elections, for the term of four years, beginning on the first Monday of the month next following their election, and until their successors qualify. When a new court is organized more than ninety days prior to a regular election, the governor shall appoint a judge thereof to serve until one is elected and has qualified, and vacancies shall be filled by like appointment for the unexpired term. All municipal judges shall be men learned in the law, and residents of the city or village. The salary of each, which shall be paid monthly by the city or village, may be fixed by resolution adopted by a four-fifths majority of the council and approved by the mayor at least ninety days before the term begins, and shall not be diminished during such term.

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128. Jurisdiction—Every municipal court shall be a court of record and its jurisdiction shall be coextensive with, and limited to, the county or counties in which the city or village lies. It may try and determine civil actions:

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1. Arising on contract, for the recovery of money only, when the amount claimed does not exceed five hundred dollars.

2. For damages for injury to the person or to real property, or for taking, detaining, or injuring personal property, when the amount claimed, or, in replevin, the value of the property in controversy, does not exceed five hundred dollars.

3. For a penalty given by statute, not exceeding five hundred dollars, or upon a bond conditioned for the payment of money, whatever the penalty thereof, when the amount claimed does not exceed five hundred dollars.

4. On an official bond, or any bond taken in a municipal court, if the penalty does not exceed five hundred dollars.

5. For forcible entry and unlawful detainer, whether involving the title to real estate or not.

It may also take and enter judgments by confession to an amount not exceeding five hundred dollars, and shall have all the powers and jurisdiction, civil and criminal, of courts of justices of the peace.

129. Jurisdiction withheld—Except as provided in § 128 subd. 5, no municipal court shall have jurisdiction of civil actions involving the title to real estate, or of any action:

1. For a divorce;
2. To recover damages for false imprisonment, libel, slander, malicious prosecution, criminal conversation, seduction, or breach of promise to marry;
3. Wherein equitable relief is demanded;
4. Against an executor or administrator, as such; or
5. Against the city, village, or county

Nor shall such court have power to issue writs of habeas corpus, quo warranto, ne exeat, mandamus, prohibition, or injunction.

130. Defences in excess of jurisdiction—Procedure—Whenever a counterclaim in excess of five hundred dollars is asserted, or an equitable defence is

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interposed, or it shall appear that the title to real estate is involved in any action other than for a forcible entry or unlawful detainer, the fact shall be recorded, and the clerk shall transmit to the clerk of the district court a certified transcript of the record, and all papers filed in the case. Thereafter the cause shall proceed to judgment in said district court as if it had been there begun, and the costs shall abide the event.

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 131. **Criminal jurisdiction—Justices of the peace**—No justice of the peace shall have jurisdiction of offences committed in any city or village wherein a municipal court is organized and existing, but all such offences otherwise cognizable by a justice, and those arising under the charter, ordinances, or by-laws of the city or village, shall be examined or tried by such court; and the court shall have jurisdiction concurrently with the justices of all offences committed elsewhere within the county: Provided that, in the absence or disability of a judge of such court, the mayor or president of the council may designate some justice of the county to sit in his place from day to day.

132. **Two judges—Daily sittings—Terms**—When any such court shall have two judges, each may exercise all the powers thereof. They may sit separately for the trial of causes, or together in the same cause. In case of disagreement, the opinion of the elder shall prevail. Each judge shall see that the laws of the state and the ordinances and by-laws of the city or village are obeyed. The court shall be opened every morning, except on Sundays and holidays, for the hearing and disposition, summarily, of all complaints made of offences committed within the county. A general term for the trial of civil actions shall be held on and following the first Tuesday of each month, and at such other times as the court may from time to time prescribe by rule.

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 133. **Clerks and deputies—Process**—The clerk of each municipal court, and his deputies, shall be appointed by the judge thereof, who may remove any of them at pleasure. If there be two judges, the senior in office shall exercise such power. Every clerk and deputy shall give bond to the state, in at least the sum of one thousand dollars, to be approved by the appointing judge, conditioned for the faithful discharge of his official duties, and for the payment as required by law or by order of the court of all moneys coming into his hands. All process shall be tested in the name of the judge, or the senior in office if there are two, be signed by the clerk, issue under the seal of the court, and be directed for service to any police officer, marshal, or constable of the city or village, to the sheriff of the county, or all of them.

134. **Clerk to receive and pay over fines, etc.**—The clerk shall receive all fines, deposits, penalties, and other moneys paid into court, and keep detailed accounts thereof. Upon filing the weekly reports provided for in § 135, he shall pay to the treasurer all sums then in his hands, except such fees as he is entitled to retain as part of his compensation.

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 135. **Weekly report of clerk**—On Monday of each week the clerk shall file with the treasurer of the city or village a verified report, showing:

1. The names of all persons convicted in such court during the preceding week, and the nature of the offence.
2. The fine or other punishment imposed upon each.
3. The amount paid by each, and the amount of cash deposited in lieu of bail, since his last report.
4. The total amount of money received from all sources during the same period.
5. The names of all persons discharged from jail by order of the court.

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 136. **Court officers**—In villages and in cities of the third and fourth classes, the constable, marshal, or chief of police thereof shall act as officer of the municipal court, serve all papers thereof placed in his hands, and receive the same fees as are allowed to constables by law. In cities of the second class, the mayor shall appoint three or more policemen as court officers, approved by the judge, who, unless otherwise prescribed by resolution of the council, shall receive the same pay as other policemen, and shall give bond to the city, for the use of all persons interested, to be approved by the judge, and conditioned for

the faithful performance of their duties as such. Their fees shall be collected by the clerk and paid into the treasury of the city. All court officers shall attend the sessions of the court, and perform all duties in connection therewith that the judge may require.

137. Reporter—Duties—Fees, etc.—In cities of the second class, and elsewhere when the appointment and compensation of a reporter is provided for by resolution of the council, the judge may employ a shorthand reporter of its proceedings, and may dismiss him at pleasure. When requested by a party, the reporter shall make and furnish a transcript in longhand of the whole or any part of the testimony taken, or of any proceeding in court, upon being paid therefor such sum per folio as the court, by its rules, shall prescribe. And when so directed by the judge, he shall furnish such copy for the judge's use, and act as a referee to take and report testimony, without compensation other than his salary.

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138. Powers and duties—Practice—Rules—Fees—Except as otherwise provided by this chapter, the municipal court, and the judges and clerks thereof, shall have in matters within its jurisdiction all the powers and duties of judges and clerks of the district court in like cases, and the procedure and practice therein shall be the same. In garnishment, however, the minimum of indebtedness and recovery shall be the same as in the justices' courts. The court may make and alter rules for the conduct of its business, and prescribe therein forms of process and procedure, conformably to law. The fees of the clerk of each municipal court and of officers serving process and papers therein, shall be the same as are allowed by law to the like officers of the district court of the same county. If such officers are paid a salary in lieu of fees, they shall nevertheless collect such fees and pay the same into the village or city treasury, and shall be responsible for such collection.

139. Costs and disbursements—Costs in civil actions shall be allowed as follows:

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1. To the plaintiff, upon a judgment in his favor of fifty dollars or more in an action for the recovery of money only, when no issue of law or fact is joined, five dollars; when issue is joined, ten dollars; in all other actions, five dollars.

2. To the defendant, upon discontinuance or dismissal, five dollars; upon a judgment in his favor upon the merits, five dollars; and, if the amount of plaintiff's claim be fifty dollars or more, ten dollars.

3. To the prevailing party on demurrer or motion, in the discretion of the court, ten dollars or less, which may be made absolute or to abide the event.

In all cases the prevailing party shall be allowed his disbursements.

140. Notices, etc.—Garnishment—Unlawful detainer—Costs shall be taxed upon notice of not less than two days. Notes of issue shall be filed at least three days, and notices of trial served at least four days, before the term. Notice of taking a deposition shall be the same as in the district court. Otherwise the time within which pleadings may be served and other acts performed shall be half that prescribed in the district court, but no such half time shall be less than three days. In garnishment cases, the law applicable to justices' courts shall govern; also in forcible entry and unlawful detainer, except that the summons shall be issued by the clerk and made returnable on the first day of a term.

141. Jury trials—Except as in this chapter otherwise provided, all general laws relating to trial by jury in the district court shall apply to municipal courts in cities of the second class. Elsewhere juries shall be drawn and jury trials conducted therein as in courts of justices of the peace, except that a police officer of the municipality may perform the duties in respect thereto prescribed to sheriffs and constables. In such second class cities, the mayor and city clerk, or, in the absence or disability of either, the officer authorized to perform his duties, shall meet with the judge or clerk of the municipal court at the city clerk's office on the second Monday in February, May, August, and November of each year, and there shall select one hundred voters of the city as jurors of said court when required and drawn as such during the ensuing three

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months, and until their successors are chosen. Their names shall be listed and the list certified by the officials selecting them, and the clerk shall place such names, written on separate slips, in a box or wheel. No person shall be required to serve as such juror during more than one quarter in any year.

07 142 66 **142. Drawing jury—Fees—Special venire—**In cities of the second class, if either party desires a jury, he shall so state when the case is set for trial. A jury of six may be drawn if both parties consent thereto in open court. The party demanding a jury shall pay to the clerk at the time fifty cents for each juror required, otherwise the case shall be tried by the court. The clerk shall draw from the box twice as many names as there are jurors required for the trial, and the persons so selected shall be summoned to appear at the appointed time. Each juror sworn as such shall be paid one dollar out of the city treasury, upon a certificate issued to him by the clerk at the time of his discharge. Whenever necessary, a special venire may be issued.

07 143 66 **143. Fees in criminal cases—What attorneys to prosecute—**In all municipal courts, jurors in criminal cases and witnesses for the prosecution shall be paid by the city or village, upon certificates issued by the clerk. Witnesses for the defence in such cases may be paid in like manner when the court shall so direct. The fees of witnesses shall be the same, in both civil and criminal cases, as are allowed by law in the district court; but in criminal cases fees shall not be required in advance, nor shall policemen or other officials or employees of the county, city, or village be paid witness fees. Offences not indictable shall be prosecuted by the city or village attorney, and all others by the county attorney.

144. Retrial of title to lands—The defeated party in an action wherein the title to land is involved, and which has been determined against him, may secure a second trial thereof in the district court by:

1. Depositing with the clerk, within twenty-four hours after notice of the judgment, the amount of all costs and disbursements included therein.

2. Serving notice upon the adverse party, within forty-eight hours, that he will apply to the court, on the first day of the next term occurring more than four days thereafter, for an order transferring the case to the district court for such trial, and fixing the amount of the bond hereinafter mentioned. And the names of his proposed sureties shall be inserted in said notice.

3. Giving bond to the adverse party, in such amount and with such sureties as the court shall fix and approve, conditioned for the payment to him or his assigns of all costs and disbursements which he shall recover upon such second trial, and of all rents, profits, and damages accruing or resulting to him during the pendency of the action, and to abide by any order the court may make therein. Upon the filing of such bond, duly approved, within five days after the amount thereof is so fixed, the court shall cause the case to be forthwith certified and transmitted to the clerk of the district court, with all the papers on file therein. Upon service of the notice herein provided for, all proceedings under the judgment shall be stayed until otherwise ordered.

145. Lien of judgments—Transcripts—Execution, etc.—No judgment of a municipal court shall be a lien upon real estate until a transcript thereof is filed and docketed with the clerk of the district court. If no execution thereon be outstanding, the judgment creditor may cause such transcript to be so docketed in the same county, and thereafter no execution shall issue except from such district court. The clerk with whom the transcript is so filed may issue transcripts to be filed and docketed in other counties, as in the case of a judgment originally rendered in his court. When docketed as herein provided, the judgment shall have the same force and effect, in all respects, as a judgment of the district court, and the enforcement thereof shall be under its control.

07 146 66 **146. Appeals to district court—**Appeals may be taken to the district court of the county from the judgments of municipal courts in the same cases, upon the same procedure, and with the same effect as provided by law respecting appeals from justices' courts. And all laws relating to such last-named appeals shall be adapted and applied to appeals from the municipal courts.

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COURT COMMISSIONER

147. Election—Term of office—There shall be elected in each county a court commissioner, who shall hold his office for four years and until his successor qualifies. One person may hold at the same time the offices of court commissioner and probate judge. (823, 827; '97 c. 311 s. 5)

148. Qualification and powers—Court commissioners shall be men learned in the law, and shall have and may exercise the judicial powers of a judge of the district court at chambers. (824)

Const. art. 6 § 15; 3-352, 249; 10-63, 45; 17-340, 315; 28-455, 10+778; 64-226, 66+969; 91-5, 97+371; 91-352, 98+188.

149. To give bond and take oath—Before entering upon his duties, each court commissioner shall give to the county a bond in the sum of two thousand dollars to be approved by the county board, conditioned for the faithful performance of his duties, which bond, with his oath of office, shall be filed for record with the register of deeds. (825; '97 c. 311)

150. Records—The court commissioner shall keep a record of all proceedings had before him in books procured at the expense of the county, and shall be supplied with necessary stationery, which books and all unused stationery shall be delivered to his successor. (826; '97 c. 311 s. 4)

151. Vacancy—Whenever a vacancy occurs in the office of court commissioner, the judge of the district court of the county shall appoint some competent person to fill such vacancy, who shall give the bond and take the oath by law required, and shall hold his office until the next general election, and until his successor qualifies. (828)

PROBATE AND JUSTICE COURTS

152. Jurisdiction—The jurisdiction of the probate courts and courts of justices of the peace, and the powers, duties, and compensation of the officers thereof, shall be such as are defined in the several chapters of the Revised Laws relating thereto.

See Const. art. 6 §§ 7, 8.

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CHAPTER 6

ELECTIONS

153. General, when held—What officers chosen—Presidential electors—A general election shall be held in the several election districts on the first Tuesday after the first Monday of November in each even-numbered year. All elective state and county officers, judges of the supreme and district courts, members of the legislature, and representatives in Congress shall be elected at the general election next before the respective terms thereof shall expire. And, at such election held in the year preceding the expiration of a term of President of the United States, presidential electors shall also be chosen. (6)

154. Definition of terms—Unless another meaning be clearly indicated by the context, the terms "city" and "village," as used in this chapter, shall mean an incorporated city or village, and the latter shall include boroughs. "Municipality" shall mean an incorporated place, and "municipal corporation" shall include municipalities, counties, and towns. "Council" shall mean the governing body of a municipality, and "municipal election" the election of officers of a municipality. "Peace officer" shall include sheriffs, constables, policemen, and citizens appointed and empowered to perform any of their duties. "Judge" and "clerk" shall mean the judges and clerks of election respectively, "district" an election district, and "voter" an elector qualified to vote at the election or upon the question referred to. "Senator" and "representative" shall mean senators and representatives in the legislature, and "polls" shall