

MASON'S MINNESOTA STATUTES

1927

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EMBRACING THE ORGANIC LAWS, THE CONSTITUTION, AND THE STAT-
UTES CONTAINED IN THE GENERAL STATUTES OF 1923, EXCEPT
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BY THE SUBSEQUENT LEGISLATION OF 1925
AND 1927

AND ALSO EMBRACING LAWS OMITTED FROM THE GENERAL STATUTES
1923, AND THE LAWS OF THE 1925 AND 1927 SESSIONS OF THE
LEGISLATURE UNDER APPROPRIATE CLASSIFICATION.

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fund of said officer or said department, and it shall be unlawful for the head of any department of the state government to direct the payment of such additional compensation out of the contingent fund, and the state auditor is hereby prohibited from issuing his warrant upon such contingent fund in payment of such additional compensation. ('09 c. 395 § 1) [116]

128. Same — Penalty — Every person offending against the provisions of this act shall be guilty of a misdemeanor and punished by a fine of not exceeding

\$100.00 or imprisonment in the county jail for not exceeding ninety days. ('09, c. 395 § 2) [117]

128-1. Holding two appointive offices—Compensation—In filling any appointive state office which the law provides shall be filled by the governor, he may appoint to such office a person already holding a state office and such person may hold both such offices and perform the functions and duties thereof; but such person shall receive only the salary by law provided for the office first held. ('25, c. 353)

CHAPTER 5

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SUPREME COURT

129. **Justices—Terms**—The supreme court shall consist of one chief justice and four associate justices, who shall hold one term of court each year, at the seat of government, commencing on the first Tuesday after the first Monday in January, with such continuations or adjournments thereof during the year as may be necessary for the dispatch of the business coming before the court. When the chief justice of said court shall be absent from the state, or shall be, for any reason, incapacitated from acting as such, the associate justice present within the state and not incapacitated who shall have served the longest time, or when there are two or more associate justices of equal terms of service, then the associate justice, whom the chief justice shall designate as senior associate justice as such, shall have and exercise all the powers, duties and functions of the chief justice during his absence or incapacity and shall be, during such absence or incapacity, the presiding justice of said court. ('05 § 69, G. S. '13 § 118, amended '19 c. 96 § 1.)

130. **Special terms**—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. (70) [119]

131. **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. (71) [120]

132. **Writs—Process**—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 and for the entry in its minutes of such orders as may from time to time be necessary to carry out the power and authority conferred upon it by law, 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. ('05 § 72, G. S. '13 § 121, amended '17 c. 403 § 1)

Power to issue writ of certiorari (13-508, 468; 86-301, 303, 90+772; 44-244, 46+349; 103-485, 115+647, 125-427, 147+820; 127-161, 149+11; 128-154, 150+383; 134-206, 158+977; 142-113; 171+263; 146-131, 178+167; to issue writ of mandamus (28-40, 8+899; 99-313, 109+404); 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; 96-255, 104+948. See 189+709 as to injunction.

In a quo warranto proceeding instituted in this court, charges of misfeasance in office of a respondent cannot be tried, and allegations of that sort must be disregarded. 156-276, 194+624.

The rule that an ex parte order is not appealable when made in a judicial proceeding is applicable to an order made in a drainage proceeding sought to be reviewed by certiorari. For the purpose of such review, a drainage proceeding is to be regarded as a judicial proceeding. 156-401, 194+1023.

133. **Power—Rules**—The Supreme 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. Such court shall prescribe and from time to time may amend and modify, rules of practice therein and also rules governing the examination and admission to practice of attorneys at law and rules governing their conduct in the practice of their profession and rules concerning the presentation, hearing and determination of accusations against attorneys at law not inconsistent with law, and may provide for the publication thereof at the cost of the state. ('05 § 73, amended '21 c. 297 § 1) [122]

For court rules see appendix in front of tables. 157-83, 195+794.

Delay for year in remitting to client money collected some of which was remitted after disbarment proceedings were instituted, held conduct authorizing disbarment. 210+865.

134. **Decisions**—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. (74) [123]

COMMISSIONERS

135. **Appointment**—The supreme court of the state, upon the taking effect of this act, is hereby authorized and directed to appoint two persons as commissioners of the supreme court, each of whom shall possess the same qualifications, and take a like oath as justices of the supreme court. Such appointment shall be for six years from the date thereof. They shall each re-

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ceive the same compensation as a justice of the supreme court, and payable in the same manner; and during their appointment shall not engage in the practice of law. All vacancies shall be filled in the same manner as the original appointment. ('13 c. 62 § 1) [124]

136. **Duties**—It shall be the duty of said commissioners, under such rules and regulations as the supreme court may adopt, to aid and assist said court in the performance of its duties, in the disposition of causes now pending before it, or which shall hereafter be brought into it during the term of office of such commissioners. During his term of office each commissioner shall be provided with an office at the state capitol, suitably furnished, be supplied with stationery, and may appoint a stenographer who shall receive the same compensation, and to be paid in the same manner as stenographers of the justices of the supreme court are now, or may hereafter be appointed and paid. ('13 c. 62 § 2) [125]

137. **Term**—Upon the increase, in the manner provided by law, of the number of associate justices of the supreme court to six, and the appointment and qualification of such additional associate justices, the term of the supreme court commissioners then in office shall terminate, and the office of supreme court commissioners hereby created, shall without further act be abolished. ('13, c. 62, § 3) [126]

CLERK

138. **Bond—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 employ, from time to time, necessary stenographic and other clerical office help for whose compensation legislative appropriation shall have been made. The justices of the supreme court may appoint a deputy clerk for the discharge of the duties of the office in the absence of the clerk or his inability to act, and such other duties as shall be assigned to him by the clerk or the court. The deputy so appointed shall take the usual oath of office and give bond to the state in the sum of one thousand dollars, to be approved by the court, and conditioned for the faithful discharge of his duties. He shall serve during the pleasure of the court. (R. L. '05 § 75, G. S. '13 § 127, amended '21 c. 46 § 1) [127]

139. **Records**—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. (76) [128]

MARSHAL

140. **Appointment, duties**—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. (77) [129]

STATE LIBRARY

141. **Justices to govern library**—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 there-

from, 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. (78) [130]

142. **Librarian**—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. (79) [131]

143. **Duties**—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. (80) [132]

144. **Records**—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. (81) [133]

145. **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. (82) [134]

Explanatory note—Custodianship of records by Minnesota Historical Society, see infra, §§ 8008-1, 8008-2.

JANITOR

146. **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. (83) [135]

REPORTER

147. **Bond—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. (84) [136]

148. **Cases—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. (85) [137]

149. Copy—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. (86) [138]

MINNESOTA REPORTS

150. Printing and binding of reports of decisions—Contracts by Commissioner of Purchases—Purchase and distribution of volumes by state—The reports of such decisions shall be printed and bound in style and quality to be approved by the court, shall contain at least six hundred pages of four and one-half inches in width, and shall be equal in quality of paper and binding to the best of those heretofore published.

The Commissioner of Purchases, pursuant to provisions of Chapter 426, General Laws 1925, under appropriate specifications to be approved by the court, from time to time and for designated periods not exceeding ten years, shall enter into a contract, in form and manner approved by the court, for the continued publication of such bound volumes, with suitable provisions requiring the publisher at all times to keep the published volumes on sale at a designated place within the state at a specified maximum price per volume, and specifying the number of such volumes to be sold and delivered to the state for distribution as herein directed. The volumes purchased by the state under the provisions of such contract shall be delivered to the secretary of state and shall be distributed as follows:

1. One to each judge of the district, probate, and municipal courts of the state, and to each justice, commissioner and the reporter of the supreme court.
2. To the attorney general, one volume for each set of reports in use in the department.
3. One to each clerk of the district court, for the use of the court when in session, and otherwise for the use of officials and citizens of the county.

All of the foregoing shall remain the property of the state and shall 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 court shall certify to be necessary for the use of the library and for exchanges with other law libraries.

The copies not disposed of hereunder shall remain in the custody of the secretary of state. (87) [139] (Amended '27, c. 379, § 1)

Explanatory note—For Laws 1925, c. 426, see §§ 53-1 to 53-52, herein.

151. New contract—[Repealed.]

This section is repealed by Laws 1927, c. 379, § 2, the repeal not to affect the existing contract for the publication and sale of the reports.

152. Present contract—[Repealed.]

This section ('21, c. 509, § 1) is repealed by Laws 1927, c. 379, § 2, the repeal not to affect the existing contract for the publication and sale of reports.

153. Distribution of copies—[Repealed.]

This section is repealed by Laws 1927, c. 379, § 2.

DISTRICT COURT

154. 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. (90) [143]

District courts have original jurisdiction of civil actions regardless of the amount in controversy (6-110, 53; 6-503, 350; 7-393, 316; 10-215, 173); and of criminal actions regardless of the punishment (26-143, 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).

Federal Employers' liability Act. 156-380, 194+780. A citizen of a foreign state has the legal right to prosecute in the courts in this state an action against a common carrier, who is engaged in business in this state, to recover for personal injuries received by him in another state as an employee of such carrier while engaged in interstate commerce, and he cannot be denied this right because the court in the state where he has received his injuries has entered a judgment in equity restraining his prosecuting such action in the courts in this state. 157-52, 195+629.

The complaint and the course of trial do not justify a claim that this is an action to recover damages for fraud and deceit, in which it is not necessary to proceed in the probate court. 158-14, 196+655.

Removal of causes. 159-388, 199+178. The courts of this state will not decline to entertain an action of a transitory nature, brought by a citizen of another state against a railroad company subject to the service of process in that state, merely because a statute of the foreign state prohibits the solicitation of the business of prosecuting such an action without the state. 165-449, 206+710.

The United States was the proper party to maintain an action for the destruction of growing timber by fire negligently set by defendant where the land, on which the timber was destroyed, is held by an Indian under a restricted patent prohibiting the patentee from selling, leasing, or in any manner alienating the land without the consent of the President. It appearing that such an action had been brought in the proper federal court, this action in the state court was rightly dismissed. 166-14, 206+939.

155. Boundaries—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. (91) [144]

60-503, 506, 63+100.

156. 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. (92) [145]

50-264, 266, 52+862; 66-213, 215, 68+976; 71-16, 73+521; 72-165, 75+123; 96-255, 104+948; 98-89, 107+730; 106-197, 118+1014; 107-441, 120+894; 124-10, 144+415; 125-404, 144+423.

154
236nw 202
See 9283

The courts have no authority to enjoin the officials of the executive department from holding an election called by the Governor to fill a vacancy in the representation of this state in the Senate of the United States. 156-270, 1944-630.

In calling such an election under the power conferred upon him by the federal Constitution, the Governor is exercising a governmental and political power, over which the courts have no control. 156-270, 1944-630.

A district court has jurisdiction to try an action which seeks to restrain the enforcement of a debt, evidenced by a judgment in another district court of the state, by execution when the debt has been satisfied, or when the plaintiff has ceased to be liable upon the judgment. 210+396.

157. Testing writs—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. (93) [146]

16-426 383; 20-196, 175; 22-189, 192; 40-65, 70, 41+459; 91-352, 357, 98+188; 124-457, 145+167.

158. Judge may act in another district—Whenever in the judgment of the governor, or of any judge of any judicial district, the convenience or interest of the public or the interest of any litigant shall require that the judge of another judicial district shall discharge any of the duties of such judge, the governor may designate, or such judge may request, a judge of the district court of any other judicial district to discharge any such duties; to hold, or to assist in holding a general or special term of such court, in any county of such judicial district other than his own, or to try and determine any motion, action or proceeding pending therein. And thereupon such judge of the district court, or any other judicial district so designated or requested, may discharge any such duties, hold or assist in holding a general or special term of such court, or try and determine any 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 judicial district. In either case the acts, orders and judgments of the judge so acting shall have the same force and effect as though given by a judge of such judicial 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. (R. L. § 94, amended '07 c. 157 § 1) [147]

76-391, 392 79+397.
165-349, 206+457.

Where a cause pending in a county of one judicial district is tried by a judge of another district, sitting in place of the resident judge, it will be conclusively presumed, in the absence of an affirmative showing to the contrary, that he was called upon or requested to hear the matter in the manner authorized by statute. 156- 95, 194+402.

159. 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. (95) [148]

160. Court not open Sunday—Exception—No court shall be opened on Sunday for any purpose other than to receive a verdict, give additional instructions to 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. (R. L. '05 § 96, G. S. '13 § 149, amended '15 c. 38 § 1)
55-58, 56+350.

161. District courts to be open at all times—The district courts of the state shall be deemed open at all times, except on legal holidays and Sunday, for the transaction of such business as may be presented, including the issuance of writs and process, the hearing of matters of law in pending actions and proceedings, and the entry of judgments and decrees therein; and in addition to the general terms appointed by law to be held, which may be adjourned from time to time, the judge of the district, or one thereof in districts of more than one judge, may by order filed with the clerk, convene the court in actual session during the vacation period on a date named in the order, for the trial of both civil actions involving public interest and criminal actions, whenever in his judgment public interests will thereby be promoted. When so convened, the court may by order entered in the minutes by the clerk, direct the issuance of special venires for grand and petit juries, returnable on a named date, for the performance of such duties as may be submitted by the court in the usual course of procedure. Civil actions involving public interests may be noticed for trial at an adjourned sitting of such term occurring more than eight days after the date of calling same, and informations by the county attorney charging the commission of crimes within the county may, as authorized by law, be presented at such terms, and any such information then presented and filed and all indictments then returned by the special grand jury shall be proceeded with by the court in all respects in harmony with the law applicable to other cases and other terms of the court. The judge of the district may also, by order filed with the clerk, appoint special terms in any county of the district for the hearing of matters of law. ('23 c. 412 § 1)

162. Times for holding general terms—The general terms of the district court shall be held in the several counties in each year at the times herein prescribed as follows:

First Judicial District

In Goodhue County—The second Monday in March and the first Monday in October each year.

In Dakota County—The fourth Monday in January and the first Monday in May and the second Monday in November each year. ('11 c. 6 § 1, amended '15 c. 327 § 1; '21 c. 199 § 1)

Second Judicial District

In Ramsey County—The first Monday in October in each year. ('17 c. 5 § 1)

Third Judicial District

The General Terms of the District Court in the several counties constituting the Third Judicial District of the State of Minnesota shall be held, each year, at the times herein prescribed as follows:

Olmsted County: On the third Monday in February, the first Monday in June and the third Monday in October.

Wabasha County: On the second Monday in May and the third Monday in November.

Winona County: On the second Monday in January and the third Monday in April and September.

Houston County: On the second Monday in June and the first Tuesday in December.

No grand jury shall be drawn or summoned for any

of the said terms of Court, except upon the direction of the presiding Judge thereof. ('17, c. 2, § 1; amended '21, c. 103, § 1; '23, c. 14, §§ 1, 2; superseded '25, c. 84, §§ 1, 2)

Explanatory note—Section 3 of Laws 1925 repeals all inconsistent acts and parts of acts.

Fourth Judicial District

Hennepin County: Second Monday of September, effective after September 1, 1909.

Fifth Judicial District

In Dodge county, the first Monday in April and the third Monday in September.

In Rice county, the first Monday in May and the first Wednesday after the first Monday in November.

In Steele county, the first Monday in June and the first Monday in December.

In Waseca county, the first Monday in March and the second Monday in October.

Provided, however, that where any general term in said Waseca county has been or shall hereafter be adjourned for a period of more than thirty (30) days, and issues of fact in any action are joined more than eight (8) days before the first day of any such adjourned term, then and in that case such action may be brought on for trial at such adjourned term upon notice of trial served eight (8) days or more before the beginning of said adjourned term. ('13, c. 326, § 1; amended '25, c. 99, § 1)

Explanatory note—Section 2 of Laws 1925 repeals all inconsistent laws and parts of laws.

Sixth Judicial District

Blue Earth county: First Tuesday in February and June; second Wednesday in November.

Watwan county: First Tuesday in May and October.

Seventh Judicial District

From and after the passage of this act the general terms of the district court in and for the several counties composing the seventh judicial district of the State of Minnesota, shall be held in each year as follows:

In Becker County, on the second Monday in March, and the first Monday in October.

In Benton County, on the fourth Monday in February, and on the third Monday in September.

In Clay County, on the second Monday in May and the first Monday in December.

In Douglas County, on the second Monday in February, and the first Tuesday in September.

In Mille Lacs County, on the fourth Tuesday in March and the third Tuesday in October.

In Morrison County, on the fourth Monday in March and the third Monday in October.

In Otter Tail County, on the second Monday in May and the first Monday in December.

In Stearns County, on the second Monday in May and the first Monday in December.

In Todd County, on the fourth Monday in February, and the third Monday in September.

In Wadena County, on the second Monday in April, and, in the odd numbered years on the first Monday in November, and in the even numbered years on the Wednesday next following general election day. ('13, c. 9, § 1, amended '15, c. 90; '17, c. 37, § 1; '25, c. 9, § 1)

Eighth Judicial District

In Carver County, on the second Monday in March and on the second Monday in October.

In Le Sueur County, on the Third Monday in February and on the third Monday in September.

In McLeod County, on the second Monday in May and the second Monday in November.

In Scott County, on the first Monday in April and the fourth Monday in October.

In Sibley County, on the first Monday in June and the first Monday in December. ('21 c. 73 § 1; amended '23 c. 249)

Ninth Judicial District

Brown County: On the 3rd Monday in May and the 4th Monday in November.

Lincoln County: On the 3rd Monday in March and the 4th Monday in September.

Lyon County: On the 1st Monday in June and the 3rd Monday in November.

Nicollet County: On the 1st Tuesday in May and the 2nd Tuesday in October.

Redwood County: On the 3rd Monday in April and the 4th Monday in October. ('15, c. 67, § 1; superseded '25, c. 102, § 1)

Explanatory note—Section 2 of Laws 1925, c. 102 repeals all inconsistent laws and parts of laws.

Tenth Judicial District

In Fillmore County, on the fourth Monday in May and the second Monday in November.

In Freeborn County, on the first Monday in February, the second Monday in May and the fourth Monday in September.

In Houston County, on the last Tuesday in April and the first Tuesday in December, provided that no grand jury shall be called for the April term except upon the special order of the presiding judge, directing that a grand jury be drawn.

In Mower County, on the second Monday in March and the third Monday in October. ('17 c. 367 § 1; amended '19 c. 29)

Eleventh Judicial District

Carlton County, second Tuesday in February, first Tuesday in June, third Tuesday in October.

St. Louis County, first Wednesday in January, March, May, September and November.

Lake County, first Wednesday in June and December.

Cook County, third Monday in June. ('13 c. 522 § 1) [Special provisions as to places for holding court, see §§ 164 et. seq.]

Twelfth Judicial District

The general terms of the district court shall be held each year in the several counties constituting the Twelfth Judicial District of the State of Minnesota at the time herein prescribed as follows:

Chippewa County: First Monday in June; fourth Monday in November.

Kandiyohi County: Third Monday in March; first Monday in October.

Meeker County: Second Monday in June; first Monday in December.

Renville County: Second Monday in May; second Monday in November.

Swift County: Third Monday in May; second Monday in November.

Yellow Medicine County: Second Tuesday in January; third Monday in June.

Lac qui Parle County: First Tuesday in May; second Tuesday in December. ('23, c. 290, § 1; amended '27, c. 55, § 1)

Explanatory note—Laws 1927, c. 55, § 2 repeals all inconsistent acts and parts of acts.

Thirteenth Judicial District

Cottonwood County, first Monday in June; second Monday in November.

Murray County, first Tuesday in May; first Tuesday in December.

Nobles County, third Monday in February; third Monday in October.

Pipestone County, second Tuesday in January; third Tuesday in May.

Rock County, third Monday in March; last Monday in September. ('13 c. 52 § 1; amended '21 c. 57 § 1)

Fourteenth Judicial District

The general terms of the District court in the several counties constituting the Fourteenth judicial district of the State of Minnesota shall be held, each year, at the times herein prescribed as follows:

Kittson county: On the fourth Monday in June, and the second Monday in November.

Marshall county: On the third Monday in May, and on the fourth Monday in November.

Norman county: On the third Monday in May, and on the fourth Monday in October.

Pennington county: On the first Tuesday in February, and on the first Tuesday in July occurring after the Fourth of July.

Mahnomen county: On the first Tuesday in March.

Polk county: On the first Monday in June, and on the first Monday after the first day of January.

Red Lake county: On the second Monday in April, and on the second Monday in October.

Roseau county: On the first Monday in May, and on the fourth Monday in October. ('15, c. 43, § 1; amended '17, c. 67, § 1; '21, c. 135, § 1; '25, c. 8, § 1; superseded '25, c. 34, § 1; superseded '27, c. 67, § 1)

Explanatory note—Laws 1925, c. 8, § 2 repeals all inconsistent acts and parts of acts. Laws 1925, c. 34, § 2 repeals all inconsistent acts and parts of acts. Laws 1927, c. 67, § 2 repeals all inconsistent acts and parts of acts.

Fifteenth Judicial District.

The general terms of the District court shall be held each year in the several counties constituting the Fifteenth Judicial District of Minnesota, at the times herein prescribed, as follows:

Aitkin county on the third Tuesday in February and the second Tuesday in September.

Beltrami county, on the second Tuesday in February and the second Tuesday in September.

Cass county, on the second Tuesday in January and the second Tuesday in June.

Clearwater county, on the second Tuesday in April and on the first Tuesday in October.

Crow Wing county, on the first Tuesday in May and the first Tuesday in November.

Hubbard county, on the fourth Tuesday in May and the first Tuesday in December.

Itasca county, on the third Tuesday in March and the fourth Tuesday in September.

Koochiching county, on the first Tuesday in May and the first Tuesday in October.

Lake of the Woods county, on the second Tuesday in June and the first Tuesday in December. ('21, c. 143, § 1; amended '23, c. 222, § 2; '25, c. 344; superseded '27, c. 197, § 1)

Explanatory note—Laws 1927, c. 197, § 2 repeals all inconsistent acts and parts of acts.

Sixteenth Judicial District

The general terms, of the District Court of the 16th Judicial District of the State of Minnesota, shall be

held in the several counties therein, in each year, at the times hereinafter prescribed, as follows:

Big Stone County—Third Monday in March; second Monday in October.

Stevens County—Third Monday in April; fourth Monday in September.

Traverse County—First Monday in May; second Monday in November.

Grant County—First Monday in June; fourth Monday in October.

Wilkin County—Third Monday in May; second Monday in December.

Pope County—Second Monday in June; fourth Monday in November. ('13, c. 263; superseded '15, c. 64, § 1; '27, c. 22, § 1)

Explanatory note—Laws 1927, c. 22, § 2 repeals all inconsistent acts and parts of acts.

Seventeenth Judicial District

Martin County, second Monday in March; second Monday in October.

Faribault County, first Monday in April; second Monday in November.

Jackson County, third Monday in May; first Monday in December. ('21 c. 174 § 1)

Eighteenth Judicial District

Anoka County, third Monday in March; second Monday in October.

Wright County, first Monday in June and December. Sherburne County, second Monday in May and November.

The general terms of the district court shall be held in the county of Isanti in each year at the times herein prescribed as follows:

The general terms on the third Monday in February and the fourth Monday in September. ('19 c. 88 § 1)

Nineteenth Judicial District

Washington County, second Monday in May; fourth Monday in November.

Chisago County, fourth Tuesday in April; first Monday in October.

Pine County, first Monday in April; fourth Tuesday in October. ('19 c. 70, amended '23 c. 56 § 1)

The general terms of the District Court shall be held in the County of Kanabec in each year at the times herein prescribed as follows:

The general term on the third Tuesday in August.

In addition thereto general terms of court shall be held in Kanabec county on the fourth Tuesday in January, on the fourth Tuesday in March and the third Wednesday in June, for the trial and determination of both criminal and civil cases, but no grand or petit jury shall be drawn or summoned unless the court shall so direct by a written order made and filed with the clerk of court of the county, at least twenty days before the dates herein fixed for holding said court. ('17, c. 9, § 2; amended '25, c. 345)

(R. L. § 97 amended '09 c. 244 § 1 with all later amendments and modifications indicated in the text.)

No jurisdiction to convene for trial of actions or proceedings involving fact issues at any place in the county other than the county seat, except by consent or express statute. (98-109, 107+547)

163. Special terms in Washington county—That in addition to the general terms of the district court in Washington county, special terms of said court shall be held in said county on the second and fourth Mondays of each month for the trial of issues of fact by the court, the trial of issues of law, the hearing of

motions and applications, and all matters except the trial of issues of fact by a jury. ('09 c. 21 § 1) [162]
Cited (98-109, 107+547)

164. Eleventh Judicial District—St. Louis County—
In addition to the general terms of the district court held at the county seat of St. Louis county as now provided by law, general terms of the district court for the county of St. Louis are hereby established, to be held in the city of Virginia, in said county, on the first Tuesday in April, on the first Tuesday in September, and on the first Tuesday in December, in each year, and in the village of Hibbing, in said county, on the first Tuesday in February, on the first Tuesday in June, and on the fourth Tuesday in October in each year, and at the city of Ely, in said county, on the first Tuesday in March and on the first Tuesday in October in each year, for the trial, hearing and determination of all actions, civil and criminal; with the same force and effect as though held at the county seat of said county; and all proceedings of whatsoever kind, that can be heard and determined in the district court of this state, may be tried, heard and determined at the said city of Virginia, the said village of Hibbing, or the said city of Ely with the same force and effect as though held and determined at the county seat of said county.

Provided, that all proceedings for the registration of title to real estate shall be tried at the county seat of said county as now provided by law.

Provided, further, that all other actions to determine title to real estate shall be tried at the county seat of said county, except that by written consent of all the parties thereto any such action may be tried at the said city of Virginia or village of Hibbing, or city of Ely.

Provided, further, that no officer having in his custody any of the public records of St. Louis county shall be required to produce any of said records at the trial of any action herein provided for, save on an order of said court providing for the immediate return of any such records to the proper office. ('09, c. 126; amended '11, c. 368, § 1; '15, c. 93, § 1; '21, c. 302, § 1; '25, c. 218) [176]

129-424. 152+838.

165. Same—Special Terms—Special terms of said District Court shall also be held at said City of Virginia at least once in each month and at said village of Hibbing, at least once in each month, on such days and at such times as the Court may designate by order, for the hearing of such matters as are usually heard at special terms and at Chambers in the District court, and the Court may by order, provide for holding special terms of Court at the City of Ely at any time when in the judgment and discretion of the court it shall deem expedient so to do, for the hearing of such matters as are usually heard at special terms and at chambers, in the District court, and may in such order if he deems it expedient, provide for the trial of issues of fact and law in cases where such action is to be tried by the Court without a jury or a jury has been waived by the parties to the action, and such waiver has been filed with the Clerk of Court. ('09 c. 126, amended '11 c. 368 § 1; '15 c. 93 § 2) [177]

129-424. 152+838.

166. Same—Deputy sheriff and clerk—There shall be at all times a chief deputy sheriff of said county and a chief deputy clerk of said district court and such other deputies as may be necessary, resident at said city of Virginia, or said city of Ely or the village of Hibbing and their appointment shall be made in the same manner as other deputy sheriffs and deputy

clerks of the district court in said counties. The salaries of such deputies shall be fixed and paid in the same manner as other such deputies. But the offices of said deputy sheriff and the offices of said deputy clerk at Virginia and Hibbing and Ely shall not in any sense be considered or deemed to be the office of the sheriff or the office of the clerk of said court for any purpose, except for the performance of their respective duties relating solely to proceedings tried or to be tried at said city of Virginia or said city of Ely or village of Hibbing, except that marriage licenses and naturalization papers may be issued by said deputy clerk. ('09 c. 126, amended '11 c. 368 § 1; amended '15 c. 93; '15 c. 371; '17 c. 225; '21 c. 284 § 1) [178]

167. Same—Courthouse — Jail — Expenses—It is hereby made the duty of the board of county commissioners of the county of St. Louis, to furnish and maintain adequate accommodations for the holding of terms of the district court at the village of Hibbing, and the City of Virginia, proper offices for said deputies, and a proper place for the confinement and maintenance of the prisoners at the village of Hibbing and the City of Virginia.

And said county shall also reimburse the clerk of said court and his deputies as herein provided for, and the county attorney and his assistants and the district judges of said district and the official court reporter for their traveling expenses actually and necessarily incurred in the performance of their respective official duties. ('09 c. 126, amended '11 c. 368 § 1; '15 c. 371 § 1; '17 c. 255 § 1) [179]

168. Same—Jurors—Grand and petit jurors for each of said general terms shall be selected, drawn and summoned in the same manner in all respects as for the general terms of said court held at the County Seat of said County, except when in the discretion of the Court, there will be no necessity of drawing a grand jury or petit jury, the Court may enter its order directing that no grand jury or petit jury be summoned for the particular term therein mentioned. ('09 c. 126, amended '11 c. 368 § 1; amended, '15 c. 93) [180]

169. Same—Appeals from municipal courts and justices—All appeals from municipal courts and from justices of the peace, shall be heard and tried at the place of holding regular or adjourned regular terms of said district court which is nearest to the court appealed from, by the usual routes of travel.

Provided, that by consent of the parties any such appeal may be tried at any other place in the county where regular terms of said district court are held. ('09 c. 126, amended '11 c. 368 § 1) [181]

113-425. 129+780.

170. Same—Trial of criminal cases—All persons bound over to the Grand Jury, charged with a criminal offense, by any justice of the peace or municipal court, shall be tried at the place of holding regular terms of said district court, which is nearest to the court binding said party over; except as hereinafter provided; and all criminal offenses committed in any city, village, township or unorganized territory shall be tried at the place of holding the regular term of said district court which is nearest to said city, village, township or place where said offense is committed. Provided that when said offense is committed nearer to Virginia or Hibbing or Ely than to the county seat, the party committing said offense shall be tried at the first term of court to be held at either Virginia or Hibbing or Ely at which a grand jury is in session. Provided further, that when such offense is committed nearer the city of Ely than any of the other places

referred to, said cause, in the discretion of the Court, or on demand of the person charged with the offense, may be tried at said city of Ely. ('09 c. 126, amended '11 c. 368 § 1; '15 c. 93 § 5) [182]

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249aw 576
171. Same—Trial of actions—All civil actions brought in the district court of said county against any person or persons, firm or corporation residing in said county, shall be tried, heard and determined at the place of holding regular or adjourned terms of said district court which is nearest, by the usual route of travel, to the residence of said defendant or defendants, or the majority thereof, unless the place of trial shall be waived by the said defendant or defendants; and for the purpose of determining the place of residence of domestic corporations, (a corporation,) such a corporation shall be considered as residing at any place where it has an office, resident agent or business place; provided, that if none of the parties shall reside or be found in the state, or the defendant be a foreign corporation, the action shall be begun and tried in the place designated in the summons. ('09 c. 126, amended, '11 c. 368 § 1; '21 c. 302 § 2) [183]

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128-227, 150+925; 129-424, 152+839.
172. Same—Summons—Place of trial—Any party wishing to have any civil cause commenced by him in said Court, tried in said city of Virginia, shall in the summons issued therein, in addition to the usual provisions, print, stamp or write thereon the words "to be tried at the city of Virginia," and any party wishing any civil cause commenced by him in said Court tried at the Village of Hibbing, shall in the summons issued therein, in addition to the usual provisions, print, stamp or write thereon the words, "to be tried at the village of Hibbing," and any party wishing any civil cause commenced by him in said Court tried at the city of Ely, shall in the summons issued therein, in addition to the usual provisions, print, stamp or write thereon the words, "to be tried at the City of Ely"; and in all cases where any summons contains any such specifications, the case shall be tried at said City of Virginia or the Village of Hibbing or City of Ely, as the case may be, unless the defendant shall have the place of trial fixed in the manner hereinafter set out.

If the place of trial designated is not the proper place of trial, as specified in this act, the cause shall nevertheless be tried in such place, unless the defendant, in his answer in addition to the other allegations of defense, shall plead the location of his residence, and demand that such action be tried at the place of holding said court nearest his residence as herein provided; and in any case where the answer of the defendant pleads such place of residence and makes such demand of place of trial, the plaintiff in his reply, may admit or deny such allegations of residence, and if such allegations of residence be not expressly denied, such case shall be tried at the place so demanded by the defendant, and if the allegations of residence be so denied, then the place of trial shall be determined by the Court on motion.

If there are several defendants, residing at different places in said county, the trial shall be at the place which the majority of such defendants unite in demanding, or if the numbers are equal, at the place nearest the residence of the majority.

Provided, that the venue of any such action may be changed from any one of said places to any other, by order of the Court, in the following cases:

1. Upon written consent of the parties.
2. When it is made to appear, on motion, that any party has been made a defendant for the purpose of preventing a change of venue as provided in this section.

3. When an impartial trial cannot be had in the place where the action is pending; or

4. When the convenience of witnesses and the ends of justice would be promoted by the change.

Application for such change under sub-divisions 2, 3, or 4, shall be made by motion which shall be returnable and heard at the place of commencement of the action. ('09 c. 126, amended '11 c. 368 § 1; '15 c. 93; '21 c. 302 § 6) [184]

128-227, 150+925; 129-424, 152+839.

173. Same—Papers where filed—After the place of trial of any cause is determined, as provided in this act, all papers, orders and documents pertaining to all causes to be tried at Virginia and filed in court shall lie filed and be kept on file at the clerk's office in the city of Virginia, and all causes to be tried in Hibbing and all papers, orders and documents pertaining thereto shall be filed and be kept on file at the clerk's office in the village of Hibbing.

In all actions tried at the city of Virginia or the village of Hibbing, the clerk of said court as soon as final judgment is entered, shall forthwith cause such judgment to be docketed in his office at the county seat; and when so docketed the same shall become a lien on real estate and have the same effect as judgments entered in causes tried at the county seat.

Provided, that in all actions tried at said city of Virginia or said village of Hibbing, involving the title of real estate, upon final judgment being entered, all the papers in said cause shall be filed in the clerk's office at the county seat and the final judgment or decree recorded therein, and a certified copy of all papers in said case shall be made by the clerk and retained at the clerk's office in the city of Virginia or in the clerk's office in the village of Hibbing where the action was originally tried, without additional charge to the parties to said action. ('09 c. 126, amended '11 c. 368 § 1; '15 c. 93; '17 c. 255 § 3) [185]

174. Same—Rules, etc.—The judges of the district court shall have full power and authority to make all such rules, orders and regulations as are necessary to carry out the provisions of this act. ('09 c. 126, amended '11 c. 368 § 1) [186]

For court rules see appendix in front of tables.

175. Same—Division of business—Juvenile court—The said judges, or a majority of them, may divide the business of said court among the said judges, and may otherwise regulate said business by rules or otherwise; and each of said judges may separately try court or jury cases during the same term, or at the same time.

And the said judges or any two of them may designate one of their number whose duty it shall be to act as judge of the juvenile court at Virginia, in said county, to hear and determine cases arising under the provisions of chapter 285 of the General Laws of 1905 [7162-7175] and all cases affecting dependent, neglected and delinquent children under the law; and all authority of said chapter 285 shall be applicable to said court; and the same shall be known as "the juvenile court of Virginia."

Said juvenile court of Virginia shall have concurrent jurisdiction with the juvenile court heretofore established in said county in all cases under said act.

That the terms of said juvenile court shall be at the times specified by the judge of said court.

Special terms of said court may be held at the village of Hibbing on the order of the judge of said court.

One of the deputy clerks of said court, residing at Virginia, shall be clerk of the said juvenile court, and

the appointment of such deputy clerk as such clerk of said juvenile court shall be made by the clerk of the district court of said county, with the consent and approval of the judges of the juvenile courts of said county, and such clerk of such juvenile court shall receive as compensation for his or her services, including those of deputy clerk, the sum of one hundred and twenty-five (\$125.00) dollars per month. ('11 c. 368, § 1, amended '13, c. 171, § 1) [189]

The bracket [7162-7175] refers to sections in G. S. 1913, which were repealed by '17, c. 397, § 35.

176. Terms—In new counties—Whenever a new county is added to any district, until the time for holding court therefor is fixed by law, the judge or judges of such district, by an order filed with the secretary of state and with the several clerks in such district, shall fix the time of holding terms in such county; but such order shall not take effect until thirty (30) days after the filing thereof with the secretary of state, nor to be altered except as thereafter provided by law. The secretary of state shall publish in the volume of laws enacted at each legislative session, a schedule of the times of holding court in the several counties as fixed by law. ('09 c. 244 § 2) [159]

177. Absence of judge—Who may act—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. (98) [160]

75-289, 77+960; 125-475, 147+654.
165-349, 206+457.

178. 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. (99) [161]

61-73, 76, 63+171, 28 L. R. A. 324; 64-394, 67+216; 74-448, 451, 77+206; 132-458, 157+706.

179. 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. (100) [163]

180. 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. (101) [164]

74-345, 351, 77+214.

181. 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. (102) [165]

182. Rules of practice—The judges of the district court shall assemble annually at such time and place as may be designated in a call for such meeting given by the district judge of said state longest in continuous service 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. Any other proper business pertaining to the judiciary may also be transacted. (R. L. '05 § 104; G. S. '13 § 167, amended '19 c. 33)

For court rules, see appendix in front of tables.
71-511, 74+283.

Rules as to findings. 163-294, 204+38.

183. 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. (105) [168]

184. Terms to be held in certain cities and villages—Order and notice—Except as hereinafter provided, one or more terms of the district court shall be held during each year in all cities and villages in this state which at any time shall have a population of more than 6,000, which are situated fifty miles or more by the usual traveled route by rail from the county seat of the county in which said village or city may be situated. The time and place of holding such terms of court shall be fixed by the order of a judge of said court, made and filed with the clerk thereof at least thirty days before the time appointed to hold said court. Such order may be special as to each term of court to be held, or it may be a general order providing the times and places at which such terms shall be held, until the further order of the court. Such clerk shall cause published notice of said order to be made for two successive weeks in a newspaper published in the city or village where such terms shall be appointed to be held, the last of which publication shall be had not less than ten nor more than twenty days before the opening of any such term. At such terms of court, with the limitations hereinafter provided, all matters cognizable before the court, except the trial

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249nw 676
Art. 6 § 14
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of issues of fact by a jury, may be brought on for hearing, trial and determination. ('07 c. 414 § 1) [169]

185. Same—Place of trial, how determined—The business to be transacted at any such term shall be such as may be brought before the court by consent of parties, and, if in any case or proceeding the parties shall fail to agree with respect to the place of hearing or trial thereof, when one or more of such parties shall reside within such county, and more than fifty miles distant from the county seat thereof, the matter in dispute may be submitted to the court eight days or more before any such term, and the court shall thereupon determine the place of hearing or trial, having consideration of the residence and convenience of the parties, and the hearing or trial shall thereupon be had at the place so fixed; provided, that in case cities or villages having the population herein provided for, shall at any time exist within fifteen miles of each other, it shall not be necessary to fix or hold terms of court in both of such places, but the terms of court may be held in either, as a judge of this court may from time to time determine. ('07 c. 414 § 2) [170]

186. Same—Court room, how provided—It shall be the duty of every such city or village in which such term of court shall be appointed to be held as aforesaid, to provide therefor a suitable room or building to hold the terms of court as shall be so designated by said judges, at the expense of said village or city. ('07 c. 414 § 3) [171]

187. Same—Calendar—Note of issue—It shall be the duty of the clerk to keep a calendar of actions for trial in any such city or village, and it shall be the duty of parties litigant entitled to have their action tried in any such city or village, as aforesaid, to designate the same upon the note of issue to be filed with the clerk of court. ('07 c. 414 § 4) [172]

188. Same—Duties of judges and sheriffs—It shall be the duty of one or more judges of the district court, the sheriff or his deputy or deputies, the clerk of the district court, or one or more of his deputies, to be present at all terms of court, so appointed to be held, to properly attend to the trial and disposition of all cases on the calendar for trial, for any such city or village. ('07 c. 414 § 5) [173]

189. Same—Records—All records, orders, judgments, of any term of a court so held shall finally be deposited and recorded in the county clerk's office at the county seat of the county. ('07 c. 414 § 6) [174]

190. Same—Traveling expenses—Change of venue—The judges of the district court shall have full power and authority to make all such orders as are necessary to carry out the provisions of this act, and shall have the power to direct the county commissioners of any such county to pay the necessary traveling and other expenses connected with holding said terms of court, not otherwise provided by law. Provided, that nothing in this act shall prevent the change of venue of the trial of civil actions as otherwise provided by law. ('07 c. 414 § 7) [175]

CLERK

191. Election—Bond—Duties—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 200,000 and less than 350,000 inhabitants the amount of such bond shall be Ten Thousand Dollars, and in counties having a population of more than 350,000 the amount of such bond shall be \$25,000.00, 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 the clerk. (106) [219] (Amended '25, c. 337, § 1)

Liability on bond (86-138. 90+371, cited 98-109, 107+547)

192. Money paid into court—Fees—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 condition as the bond provided for in section 191, 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, provided, that where money is paid or deposited in any court by or for a city of the first class, no fee or commission shall be paid to or for the clerk for any service performed by him in receiving or paying over any such money deposited with him. (R. L. '05 § 107, G. S. '13 § 220, amended '21 c. 178)

193. 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. (108) [221]

40-65, 70, 41+459.

193-1. Assignment clerk in counties with population of not less than 240,000 and not more than 330,000—Appointment—That in counties of this state now or hereafter having, according to the last completed state or national census, a population of not less than 240,000 and not more than 330,000 inhabitants, the Clerk of the District Court may appoint and employ a deputy clerk in addition to all other deputy clerks now provided for by law. ('25, c. 52, § 1)

193-2. Same—Duties—Such deputy clerk shall be known as the Assignment Clerk, and his duties shall be to have charge of the calendar and the assignment of cases under the supervision of the court, and he shall have such other powers and duties as shall be determined by order or rule of the court. ('25, c. 52, § 2)

193-3. Same—Salary—The salary of such assignment clerk is hereby fixed at \$1800.00 per annum, payable out of the County Treasury in equal monthly installments. ('25, c. 52, § 3)

194. 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 at-

torneys or others from having access to such books and records at all reasonable times, when no certificate is necessary or required. (R. L. § 109, amended '07 c. 203 § 1) [222]

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

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See 9497

195. 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 § 196, and such other books as the court, in its discretion, may direct. (110) [223]

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

196. 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	Execution Docket	Fee Book	Satisfied or not Satisfied	Number of Cases
	Month Day	Book Page	Book Page	Book Page		

(111) [224]

In counties having less than 50,000 inhabitants, the clerk was directed by '07 c. 312 to index all cases on file prior to March 7th, 1885, and as compensation to receive such sum as fixed by the judge at not exceeding 10 cents per index.

In counties having over 45,000 and not more than 50,000 inhabitants the clerk was directed, by '17 c. 12, to transcribe prior to June 1, 1917, in a book to be procured for that purpose, all judgments docketed within the last ten years and unsatisfied of record; compensation to be fixed by the board of county commissioners. 197+198 and 199.

197. 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. (112) [227]

198. 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. (113) [228]

199. Printed calendars—The clerk of the district court in each of the several counties of this state shall

provide printed calendars of the cases to be tried at the general terms thereof at the expense of the counties where such court is held. Provided, that this act shall not apply to a county constituting one judicial district where only one term of court is held each year. ('09 c. 369 § 1) [229]

200. 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. (114) [230]

15-198, 153; 64-207, 66+264.
130-405, 155+629.

SALARIES OF CLERKS AND DEPUTIES AND CLERK HIRE IN CERTAIN COUNTIES.

In each county of the state having a population of 220,000 or more and less than 330,000 inhabitants, the salary of the clerk is \$4,500.00 per annum; chief deputy, \$2,800.00 per annum; deputy clerk, \$2,150.00 per annum; deputy clerk \$1,950.00 per annum; deputy clerk, \$1,850.00 per annum; nine deputy clerks, \$1,560.00 per annum.

('11 c. 80 § 1, amended '13 c. 190, '15 c. 83 § 1, '19 c. 304 § 8, '21 c. 336, § 9, '23 c. 307 § 6).

In such county the salary of the clerk of the juvenile division of the district court is \$2400.00 per annum and in counties having over 200,000 and less than 330,000 in-

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habitants, the judge of the juvenile court may appoint one or more investigators who shall receive a salary of \$1300.00 per annum, provided that the judge may designate one investigator to have general charge of the work, receiving a salary of \$1560.00 per annum.

('11 c. 122 § 3, amended '13 c. 191 § 3, '19 c. 304 § 9, '21 c. 336 § 10).

The salary of the clerk in counties having a population of 380,000 inhabitants or over, shall be \$4000.00 per annum; chief deputy \$2835.00 per annum; one head counter deputy \$2205.00 per annum; one assignment deputy, \$2205.00 per annum; three deputy clerks, \$1870.00 per annum; four deputy clerks, \$1700.00 per annum; eleven deputy clerks, \$1600.00 per annum; two deputy clerks, \$1540.00 per annum; one bookkeeper and cashier, \$1760.00 per annum; one stenographer, \$1650.00 per annum, and one special clerk, \$2200.00 per annum.

('21 c. 133, amended '23 c. 419 §§ 13, 14). The above sections supersede the provisions of '13 c. 400 § 10 and § 11, amended by '17 c. 511, '19 c. 302 § 11, which at the time of their passage related only to Hennepin county and are now inapplicable to any county in the state being based on a population of over 300,000 inhabitants only.

In counties having over 150,000 and less than 200,000 inhabitants, the salary of the clerk shall be \$3600.00 per annum and he shall employ sufficient help and deputies to properly discharge the duties of his office but the number and compensation shall be under control of the county board, the clerk having the right if feeling aggrieved, to appeal to the district court from such orders of the county board.

('11 c. 145 §§ 9 and 10).

In counties having an assessed valuation of more than \$250,000,000.00 and an area of over 5000 square miles, the clerk's salary is \$4000.00 per annum and that of his assistants is under control of the county board.

('19 c. 149 §§ 10-12; amended '21 c. 492 §§ 11, 12).

In all counties having less than 45,000, counties having a population of less than 7000 inhabitants shall be known as class "A"; less than 12,000, class "B"; 12,000 and less than 18,000, class "C"; 18,000 and less than 24,000, class "D"; 24,000 and less than 35,000, class "E"; 35,000 and less than 45,000, class "F"; and clerks shall receive compensation as follows: Class "A", \$650.00 per annum; class "B", \$750.00 per annum; class "C", \$800.00 per annum; class "D", \$800.00 per annum; class "E", \$1000.00 per annum; class "F", \$1100.00 per annum; provided, such counties have a taxable valuation of more than \$6,000,000.00 and in the preceding year the grand jury returned indictments against at least twenty separate defendants or court was held for forty days or more. For all services rendered by such clerks, they shall receive the fees and compensation allowed by law. Provided, that in counties having less than 45,000 inhabitants if the fees and salary do not equal \$2000.00, the auditor shall issue a warrant sufficient to make up that sum. Provided, however, in counties having an assessed valuation of \$7,000,000.00, the auditor shall issue a warrant sufficient only to make all returns equal \$1500.00.

('09 c. 335, amended '13 c. 511, '19 c. 229).

In counties having a population of less than 45,000 inhabitants, counties having less than 7000 inhabitants shall be known as class "A"; less than 12,000 inhabitants class "B"; less than 18,000 inhabitants, class "C"; 18,000 and less than 30,000, class "D"; 30,000 and less than 45,000, class "E"; and in such counties the several clerks shall be allowed for clerk hire the sum of \$200.00 per annum in counties of class "A"; \$300.00 per annum in class "B"; \$400.00 per annum in class "C"; \$500.00 per annum in class "D"; \$600.00 per annum in class "E".

('17 c. 476).

Clerk of district court in any county having population of not less than 45,000 nor more than 75,000, whose fees are not fixed by special law, may apply to district judge for appointment of a deputy clerk, and if reasonably necessary district judge by order may authorize the appointment and fix compensation.

('15 c. 71).

In any county having 70 congressional townships and not more than 80 congressional townships and an assessed valuation of not less than \$3,000,000.00 nor more than \$5,000,000.00, the salary of the district clerk shall be \$1500.00 per annum and he shall be allowed not to exceed \$600.00 per annum for clerk hire.

('19 c. 286 § 4).

In each county having more than 60 and less than 80 congressional townships and a population of more than 45,000 and less than 75,000 inhabitants, the clerk shall be entitled to such sum for clerk hire as may be fixed by the board not exceeding \$1200.00 per annum and the compensation of the clerk shall be as heretofore fixed and he can retain no fees except those received for naturalization papers and work on the Board of Audit.

('21 c. 355, Rep. '21, c. 355, § 2, infra, this note.)

In each county containing not less than 50 nor more than 70 congressional townships and having an assessed valuation of not more than \$3,000,000.00, the clerk of the district court shall receive a salary of \$1500.00 per annum.

('17 c. 374).

In counties having more than 41 and less than 45 townships and an assessed valuation of not less than

\$14,000,000.00 and not more than \$18,000,000.00 the salary of the clerk shall be \$1620.00 per annum and he may retain all fees collected in real estate tax proceedings.

('21 c. 437 § 10).

In counties containing more than 60 or less than 80 congressional townships and having a population of more than 45,000 and less than 75,000, the clerk of the district court is entitled to a sum for clerk hire, to be fixed by the county board, not to exceed \$1,500 per annum, by Laws 1925, c. 301, § 1. Section 2 repeals Laws 1921, c. 355.

In counties having not more than 53 nor less than 30 full and fractional congressional townships and an assessed valuation of not more than \$4,000,000, the clerk of the district court shall receive for his compensation all fees collected, and, if such fees amount to less than \$1,500 he shall receive a sum in addition to make the income from his office \$1,500, with a proviso that he shall receive a salary of \$650 per annum, to be considered a portion of his fees, fees in naturalization proceedings not to be considered, and he shall receive for clerk hire not to exceed \$200 per annum, by Laws 1925, c. 5, § 3.

In counties with not less than 41 and not more than 43 congressional townships and a population of not less than 25,000 nor more than 30,000 the clerk of the district court shall receive a salary of \$1,400 per annum and shall be allowed to retain all other fees, and he shall be allowed not to exceed \$500 per annum for a deputy clerk by Laws 1925, c. 91, §§ 1, 7; such compensation to be in full for all services rendered by § 14; additional clerk hire may be allowed not to exceed \$80 per month, to be used only in case of emergency, by § 15; salary to be paid monthly, except in case of special clerk hire, by § 16; fees to be subject to Gen. St. 1923, §§ 976, 977, by § 17; clerk hire to be authorized and paid for work performed only, by § 18.

Laws 1911, c. 80, § 1, as amended by Laws 1913, c. 190, Laws 1915, c. 83, § 1, Laws 1919, c. 304, § 3, Laws 1921, c. 336, § 9, and Laws 1923, c. 307, § 6, is amended by Laws 1927, c. 420, § 5, to read as follows: "The salary of the clerk of the District court of each county in this state having, or which may hereafter have, a population of not less than two hundred and twenty thousand (220,000) and not more than three hundred and thirty thousand (330,000) inhabitants, shall be the sum of four thousand five hundred dollars (\$4,500) per annum.

Such clerk of the District court may appoint and employ one chief deputy who shall be paid the sum of twenty-eight hundred dollars (\$2,800) per annum; one deputy clerk who shall be paid the sum of two thousand one hundred fifty dollars (\$2,150) per annum; one deputy clerk who shall be paid the sum of two thousand and fifty dollars (\$2,050) per annum; one deputy clerk who shall be paid the sum of nineteen hundred fifty dollars (\$1,950) per annum; nine deputy clerks who shall each be paid the sum of sixteen hundred twenty dollars (\$1,620) per annum; one clerk to be known as the assignment clerk, who shall be paid a salary of nineteen hundred twenty dollars (\$1,920) per annum.

Laws 1923, c. 419, § 14, amending Laws 1921, c. 133, § 14, relating to deputies and clerks in counties having population of 380,000 or over, is amended by Laws 1925, c. 398, § 2, to read as follows: That Section 14 of Chapter 419, Laws of 1923, be and the same is hereby amended to read as follows:

Section 14. The Clerk of the District Court shall appoint and employ one chief deputy who shall be paid the sum of thirty-six hundred (\$3,600.00) dollars per annum; one head counter deputy who shall be paid the sum of twenty-two hundred and five dollars (\$2,205.00) per annum; one assignment deputy who shall be paid the sum of twenty-two hundred and five (\$2,205.00) dollars per annum; three deputy clerks who shall each be paid the sum of eighteen hundred and seventy (\$1,870.00) dollars per annum; four deputy clerks who shall be paid the sum of seventeen hundred (\$1,700.00) dollars per annum; eleven deputy clerks who shall each be paid the sum of sixteen hundred (\$1,600.00) dollars per annum; two deputy clerks who shall each be paid the sum of fifteen hundred and forty (\$1,540.00) dollars per annum; one bookkeeper and cashier who shall be paid the sum of seventeen hundred and sixty (\$1,760.00) dollars per annum; one stenographer who shall be paid the sum of sixteen hundred fifty (\$1,650.00) dollars per annum; one special clerk who shall be paid the sum of Twenty-two hundred (\$2,200.00) dollars per annum. The increases provided by the above are to be approved by the board of county commissioners, by § 5 of said Laws 1925, c. 398.

STENOGRAPHIC REPORTERS

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201. 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. (115) [240]

See '07 c. 186, amended '15 c. 175; '21 c. 241; '13 c. 240; '15 c. 50; '17 c. 51; '17 c. 140; '17 c. 141; '17 c. 142; '17 c. 143; '17 c. 144; '17 c. 145; '17 c. 146; '17 c. 147; '17 c. 148; '17 c. 149; '17 c. 371; '19 c. 34; '19 c. 147; '21 c. 400; '23 c. 77. The above Session acts contain special provisions for the appointment, duties and compensations of the reporters in various districts.

202. 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. (116) [241]

203. Record to be filed—Transcript—As soon as the trial is ended, the reporter shall file his stenographic report 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. (117) [242]

204. 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. (118) [243]

205. Salaries of court reporters—The judges, by an order filed with the county auditors annually on or before the first Monday in May, 1921, and on or before the first Monday in January, annually thereafter, shall fix and establish the salary of the court reporter at an amount not exceeding two thousand seven hundred dollars (\$2700) per year and in such order shall apportion the salaries of the reporters in their respective districts among the several counties, and each county shall be required by such order to pay a specified amount thereof in monthly installments, which amount shall be such proportion of the whole salary as the number of days work actually done by the reporter in the trial of cases in said county during the preceding year bears to the whole number so performed in the district. Each reporter shall have and maintain his residence in the district in which he is appointed, but if any reporter be appointed in two or more districts he may reside in either or any of them.

The reporter, in addition to his salary, shall be paid such sums as he shall pay out as necessary railway, traveling and hotel expenses while absent from the city or village in which he resides in the discharge of his official duties, such expenses to be paid by the

county for which the same were incurred upon presentation of a verified, itemized statement thereof approved by the judge; and the county auditor of such county, upon presentation of such approved statement, shall issue his warrant in payment thereof. (R. L. § 119, amended '09 c. 168 § 1; '21 c. 170) [244]

206. Fees—In addition to such salary, the reporter may charge for a transcript of his record, ordered by any person other than the judge, twelve cents per folio thereof, and three cents per folio for each manifold or other copy thereof when so ordered that it can be made with such transcript. (R. L. 1905, § 120; amended '27, c. 262, § 1) [245]

206-1. Same—Counties excepted—This act shall not apply to any county containing a city of the first class. ('27, c. 262, § 3)

Explanatory note—See § 206, ante.

207. Readjustment of salaries on change of district—That whenever a new judicial district is created, or the boundary lines of a judicial district is changed, the judge or judges of such district or districts shall, within thirty (30) days after the establishing of such new district or the changing of such boundary lines, file an order readjusting the salaries of court reporters and the proportions to be paid by the several counties, with the several county auditors in each district, to conform to such changes, and the filing of such order shall vacate and set aside any and all orders then on file with such auditors. ('07 c. 242 § 1) [246]

208. 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. (121) [247]

SALARIES

Provisions as to salary of officers of Judicial Department will be found in ch. 5A.

209. Expenses of judges of district court—The judges of the district court shall be paid, in addition to the amounts now provided by law, all sums they shall hereafter pay out as necessary railway, traveling and hotel expenses while absent from their places of residence in the discharge of their official duties. (And all sums they shall necessarily hereafter pay out for telephone tolls, postage, expressage and stationery, including printed letter heads and envelopes, for official business.) Each judge shall file quarterly with the state auditor an itemized statement, verified by him, of all such expenses actually paid by him during the preceding quarter, which shall be audited by said state auditor and paid upon his warrant. ('13 c. 466 § 1, amended '21 c. 249) [253]

210. Retirement of supreme court judges, supreme court commissioners, and district court judges—Whenever a judge of the supreme court or a commissioner of the supreme court or a judge of the district court in this state shall become incapacitated physically or mentally from performing his judicial duties during the remainder of his term of office and shall make a written application to the governor for his retirement, setting forth the nature and extent of such disability, the governor shall make such investigation as he shall deem advisable and if he shall thereby determine that such disability exists, and the public service is suffering and will continue to suffer by reason of such disability, he shall thereupon by written order, to be filed in the office of the secretary of state, direct the retirement of such judge for the unexpired portion of the term for which such judge was elected, which re-

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irement shall create a vacancy in said office, which shall be filled by appointment, as provided by law.

Provided, that when the disability is mental and to an extent that renders such judge incompetent to make such application, the same may be made by the legally appointed guardian of such judge. ('13, c. 269, § 1; amended '27, c. 337, § 2) [254]

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211. Same—Compensation—When a judge or commissioner of the supreme court shall be retired under the provisions of Section 210, General Statutes, 1923, he shall receive the compensation allotted to his office for the remainder of his said term, or if then past seventy years of age, having served as a judge of the district court and as a judge of the supreme court, or either, continually for more than twenty-five years, he shall receive one-half of the compensation allotted to his office at the time of such retirement for the remainder of his life, to be paid at the time, and in the manner provided by law. ('13, c. 269, § 2; amended '23, c. 79; '27, c. 337, § 1) [255]

211-1. Compulsory retirement of district judges for incapacity to perform duties—Petition to Governor—Whenever any judge of the district court of the state becomes mentally or physically incapacitated from performing his official duties and such incapacity shall have continued for at least six months, and the public service is and will continue to suffer by reason thereof, and no application has been made by such judge or his legally appointed guardian to the governor for his retirement under and pursuant to Section 210, General Statutes 1923, any 25 or more freeholders and electors of the judicial district of such judge may petition the governor to have the question of the incapacity of such judge judicially determined as hereinafter provided. ('25, c. 281, § 1)

211-2. Same—Contents of petition—The said petition shall be in writing, duly verified, and shall allege said incapacity and set forth the nature and extent thereof, that such incapacity has existed for at least six months before the presentation thereof, and that the public service is suffering and will continue to suffer on account thereof unless such judge be suspended and retired from his said office. ('25, c. 281, § 2)

211-3. Same—Suspension of judge pending determination of incapacity—Upon receiving such petition, the governor shall forthwith deliver a certified copy thereof to the attorney general of the state, and shall file another certified copy thereof in the office of the clerk of the district court of the county in which such judge resides, together with an order suspending said judge from office until the final determination of the question of his incapacity, and shall also forthwith make and file in said clerk's office an order appointing a special term of the district court of said county, to be held at a time and place specified therein, for a hearing upon said petition, which said order shall designate and assign three judges of the district court of the state to sit en banc to try and determine the question of the incapacity of such judge to perform his judicial duties, at which hearing the district judge longest in judicial service shall preside. Such hearing shall be commenced not less than 30 days nor more than 60 days after the filing of said order, and certified copies of said petition and of said order shall be personally served upon said judge, upon his legally appointed guardian, if there be one, and upon the attorney general, not less than 20 days before the day set for the commencement of such hearing. After the filing of said petition, the same shall not be withdrawn nor

abandoned without full hearing, and said judges may, if necessary, appoint counsel at the expense of the state to conduct said hearing and to prepare and present evidence, and may, for cause continue said hearing a reasonable length of time on application of said judge, his legally appointed guardian, if there be one, the petitioners, or any attorney duly appearing in said proceedings. ('25, c. 281, § 3)

211-4. Procedure on hearing—At such hearing, the petitioners, the said judge, and his guardian, if there be one, may appear and be heard, personally or by counsel, and may offer any competent evidence upon the issues involved. The attorney general, if in his judgment the public interest so requires, may, in person or by any reputable attorney or attorneys of the state appointed by him as special assistant attorney or attorneys general for such hearing, appear and be heard, participate in said hearing, and produce evidence thereat.

The said proceedings, including all evidence offered or received, all rulings, and all orders made, shall be taken down in shorthand by some competent shorthand reporter appointed by the presiding judge, as upon other trials in the district court, but such judge shall not appoint the court reporter of such district. The said judge sitting en banc shall determine all issues of law and fact, and particularly whether such judge is, or is not, incapacitated from performing his judicial duties, and shall make and file with the clerk of the district court of such county their findings of fact upon the issues involved in said proceedings. The reporter shall forthwith, upon the completion of said hearing, transcribe his shorthand notes of said proceedings and file a certified copy thereof with said clerk.

Upon the filing of said findings of fact, the clerk shall forthwith transmit to the governor a certified copy thereof. ('25, c. 281, § 4)

211-5. Same—Order for retirement—Filling vacancy—If the said judges shall find that such judge is incapacitated from the performance of his judicial duties, the governor shall, upon the expiration of the time for appeal, if no appeal is taken, and upon the final determination of such appeal, if taken, sustaining such findings, by written order, direct his retirement for the unexpired portion of his term, a certified copy of which said order shall be forthwith served upon such judge and upon his legally appointed guardian, if there be one, and a copy thereof shall be filed in the office of the clerk of the county in which such hearing was had. The filing of said order, with proof of service upon such judge and his legally appointed guardian, if there be one, shall create a vacancy in said office, which shall be filled by appointment as provided by law; and such appointee shall, upon qualifying, become the judge of said district and hold such office until a successor is elected and qualified. ('25, c. 281, § 5)

211-6. Same—Appeals to supreme court—Within twenty days after the filing of such findings of fact, such judge, or his legally appointed guardian, the petitioners, or anyone or more of them, or the attorney general may appeal from said findings to the supreme court of the state by filing a notice of such appeal with the clerk in whose office said findings are filed. Such clerk shall forthwith transmit a certified copy of such notice to the clerk of the supreme court, and said supreme court shall place such matter upon the calendar for hearing at the earliest time conveniently possible, giving preference to such matter over general matters pending. The court shall also make such order in regard to printing, filing, and serving of briefs and

record as shall seem proper in the premises. The clerk of the district court shall transmit to the clerk of the supreme court all records and files in said proceedings, including the reporter's transcript. ('25, c. 281, § 6)

211-7. Same—Compensation of retired judge—Whenever any judge shall be retired under the provisions of this act, he shall receive the compensation to which he would have been entitled had he served out the remainder of his term, which compensation shall be paid at the time and in the manner provided by law. ('25, c. 281, § 7)

Explanatory note—For "this act" read "Sections 211-1 to 211-7."

MUNICIPAL COURTS

Appeals on convictions under ordinances. 160-261, 199+913.

212. 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. (124) [256]

112-136, 127+473; 112-482, 128+834; 130-494, 153+954; 149-368, 183+821; 150-454, 185+934.

213. Oaths and bonds—The oaths, and bonds when required, after their approval, of all judges and clerks of municipal courts, whether organized under special or general law, shall hereafter be filed with the secretary of state. They shall be in such form as the attorney general shall prescribe. ('09 c. 116 § 1) [257]

214. Same—To be forwarded to secretary of state—The several custodians of the oaths and bonds of all such officers now acting, shall, prior to May 1, 1909, forward the same to the secretary of state, who shall receipt therefor and likewise file and record the same. ('09 c. 116 § 2) [258]

MUNICIPAL COURTS IN CITIES AND VILLAGES.

215. 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 one thousand (1,000) inhabitants or more, or which has an assessed valuation of at least \$4,000 000 regardless of population, in which city or village no municipal court existed at the time of the taking effect of the Revised Laws of 1905, 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; and in case that two judges shall be prescribed for said court, one thereof may be called the municipal judge and the other the special municipal judge. (R. L. § 125, amended '13 c. 104 § 1; '15 c. 75; '19 c. 268) [259]

Municipal Court of Duluth, Laws 1925, c. 85, §§ 1 to 8, amending Laws 1923, c. 238, §§ 3, 11, 19, 39, 43, 44, 52 and adding § 33a. Laws 1927, c. 33, antecedent Laws 1923, c. 238, § 34.

Municipal court of Faribault, Laws 1925, c. 120, §§ 1, 5, establishing the court. Laws 1927, c. 81, §§ 1-5, amending Laws 1925, c. 120, §§ 2, 3, and adding §§ 4A, 4B and 4C. The municipal court of the city of Faribault is without power to try a person upon a criminal complaint made by a private individual, charging an offense beyond the jurisdiction of a justice of the peace, but within the jurisdiction prescribed by section 3, c. 120, Laws 1925, creating the court. The information designated in said section 3 means an information made and filed by a duly constituted prosecuting officer, and the proceedings thereunder must conform to the provisions of sections 10664-10668, G. S. 1923. 164-328, 205+63.

Municipal court of Hibbing. Laws 1927, c. 105, relating to compensation of jurors.

Municipal court of Mankato. Laws 1927, c. 61, §§ 1-37, establishing the court.

Municipal court of Minneapolis. Laws 1927, c. 130, §§ 1, 2, providing for additional judge. Laws 1925, c. 410, §§ 1, 2, amending Sp. L. 1889, c. 34, § 9, and adding § 13-a. Laws 1927, c. 424, §§ 1-7, amending Sp. L. 1889, §§ 2, 7, 18 and 20, as amended.

Municipal court of St. Paul. Laws 1925, c. 371, § 1, amending Sp. L. 1889, §§ 47, 52, as amended by Laws 1913, c. 430, Laws 1919, c. 308 and Laws 1921, c. 362, relating to deputy clerks. Laws 1927, c. 317, §§ 1, 2, amending Sp. L. 1889, §§ 49, 52, as amended by Laws 1907, c. 30, Laws 1913, c. 430, Laws 1917, c. 246, Laws 1919, c. 308, Laws 1927, c. 362.

Municipal court of Winona. Laws 1925, c. 45, amending Sp. L. 1885, Sp. L. c. 115, § 9, as amended by Sp. L. 1889, Sp. L., c. 14, relating to the clerk of the court. Laws 1925, c. 46, § 1, amending Sp. L. 1885, c. 115, § 21, as amended by Sp. L. 1887, c. 50, Laws 1917, c. 70, relating to salary of municipal judge.

216. Application to existing courts—By a like resolution, adopted and approved as specified in § 259, 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. (126) [260]

112-136, 127+473. § 259 referred to is § 215, herein.

217 217 29 - 223 33 - 269

217. 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 (90) days prior to a regular election, the Governor shall appoint a judge or judges thereof to serve until they are elected and qualified, and vacancies shall be filled by like appointments for the unexpired term. Provided, that in the absence or disability of the municipal judge and special municipal judge of such court, if there be one, the mayor or president of the council may designate a practicing attorney to sit in place of such municipal judge from day to day. All municipal judges and special municipal judges shall be men learned in the law and residents of the city or village, and shall hold no other elective public office during their term as judge. The salary of each shall be paid monthly by the city or village, and shall be fixed by resolution adopted by a four-fifths majority of the council of such city or village, and approved by the mayor or president before the term begins, and shall not be increased or diminished during such term. Provided, however, that where there shall be a municipal judge and a special municipal judge, the special municipal judge shall act only in the absence or disability of the municipal judge, and receive as compensation therefor an amount per diem to be fixed by the council of such city or village and paid out of the salary of the municipal judge; and provided further, that any such special

215 29 - 4 29 - 126 29 - 134 29 - 241 29 - 253 215 31 - 13 31 - 57 31 - 251 215 - 228 234nw 453 Art 6 § 8 9111 215 33 - 32 33 - 119 215N 29 - 45 29 - 423 215 Note 34 - 35

municipal judge shall not be prohibited from practicing in said municipal court or in any other court, but he shall not sit in the trial of any cause or proceeding wherein he may be interested, directly or indirectly, as counsel or attorney, or otherwise. (R. L. 1905, § 127; amended '13, c. 104, § 1; '27, c. 276, § 1) [261]

218
178m 282; 218. 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:

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.

218⁶
80sp 351
226nw 847; 5. For forcible entry and unlawful detainer, whether involving the title to real estate or not.

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9029
9149; 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. (128) [262]

139-463, 167+110.
A municipal court, having the same power as a justice court, in actions of forcible entry and detainer, has jurisdiction to entertain an answer setting forth any matter at law, in excuse, justification, or avoidance, but does not have jurisdiction to entertain an answer setting forth, for such purposes, equitable matter in which the defendant seeks affirmative action in order that he may by reason thereof create a matter in defense. 157-161, 195+898.

219
226nw 847; 219. Jurisdiction withheld—Except as provided in § 262, 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. (129) [263]

§ 262 referred to is § 218, herein.

109-208, 123+406; 123-494, 143+785; 126-406, 148+565.

220.—Defences in excess of jurisdiction—Procedure—Whenever a counterclaim in excess of five hundred dollars is asserted, or an equitable defence is 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. (130) [264]

109-208, 123+406.

221. Criminal jurisdiction—Justices of the peace—No justice of the peace shall have jurisdiction of offenses committed in any city or village wherein a municipal court is organized and existing, but all such offenses otherwise cognizable by a justice shall be examined and tried by such municipal court, and, all cases arising under the charter, ordinances, or by-laws of such city or village shall be tried by said court without a jury. Said court shall have jurisdiction concurrently with the justices of all offenses committed elsewhere within the county. (R. L. § 131, amended '13 c. 104 § 1) [265]

117-173, 134+509; 129-386, 152+777.

222. Two judges—Daily sittings—Terms—Excepting in cases where the resolution establishing such court provides for a municipal judge and a special municipal judge, each may exercise all the powers thereof. 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 offenses committed within the county, of which the court has jurisdiction. 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. (R. L. § 132, amended '13 c. 104 § 1) [266]

223. 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 (\$1,000.00) 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, court officer, marshal, or constable of the city or village, to the sheriff of the county, or all of them. No judge or other officer of such municipal court, excepting the special municipal judge, if any, shall prepare or draw any pleadings or other papers in any civil actions in said municipal court, nor shall they institute, for another, any civil action in such court. (R. L. § 133, amended '13 c. 104 § 1) [267]

224. 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 § 269, 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. (134) [268]

§ 269 referred to is § 225, herein.

225. 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. (135) [269]

226. Court officers—In cities and villages of less than five thousand (5,000) population, the constable, marshal or chief of police 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 and villages of five thousand (5,000) population or more, the mayor or president shall appoint one or more (not exceeding three) court officers, who shall also have the power and authority of policemen, receive the same pay as other policemen, and shall give bond to the city or village, for the use of all persons interested, to be approved by the council of such city or village 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 or village, except where no salary is allowed them. Court officers shall attend the sessions of the court and perform all duties in connection therewith, when ordered by the court. (R. L. § 136, amended '13 c. 104 § 1) [270]

227. 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. (137) [271]

228. 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 the 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 city or village treasury, and shall be responsible for such collection. Where, in any county of this state there are two or more municipal courts having jurisdictions throughout said county, whether they be created or established under chapter five (5), Revised Laws of Minnesota for 1905, or by any other general or special law, the defendant in any civil action begun in any one of said courts may have a change of venue therefrom to the municipal court in said county nearest his place of residence, by filing with the clerk of the municipal court, in which such action may be begun, an affidavit, by himself, his agent or attorney, stating definitely his place of residence, and the location of the nearest municipal court thereto in said county, accompanied by a demand for such change of venue, not less than three (3) days before the opening day of the term of such municipal

court at which such action may be noticed for trial. (R. L. § 138, amended '13 c. 104 § 1) [272]

The provisions of R. L. 1905 c. 5, are included in Chapter 5 hereof.
128-225, 150+924.

228-1. Compensation of municipal court clerks in certain villages—In all villages having a population in excess of 2500 and an assessed valuation of \$3,000,000 or more the clerk of the municipal court shall be paid such compensation as may be fixed by the council or governing body of such village; provided, such compensation shall not be diminished during the term for which such clerk is appointed. ('25, c. 182)

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

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. (139) [273]

230. Notices, etc.—Unlawful detainer—Costs shall be taxed upon notice of not less than two (2) days. Notes of issue shall be filed at least three (3) 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 (3) days. In forcible entry and unlawful detainer, the summons shall be issued by the clerk and may be made returnable on any day not less than three (3) days after the issuance of such summons; and in other respects such suits shall be governed by similar regulations relating to justices of the peace. (R. L. § 140, amended '13 c. 104 § 1) [274]

The municipal court of Minneapolis in forcible entries and unlawful detainers cannot entertain (1) a motion for a new trial; (2) a motion for judgment notwithstanding the verdict. It can, however, (a) dismiss an action; (b) discharge a jury; (c) direct a verdict; (d) entertain and determine a motion for judgment on the pleadings. 158-217, 197+209.

231. Jury trials—Except as in this chapter otherwise provided, all general laws relating to trial by jury in the district court shall apply to this court. In such cities and villages, the mayor and city clerk in cities, and the president and village clerk in villages, 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 or village clerk's office on the second Monday in February, May, August and November of each year, and there shall select one hundred (100) voters of the city or village as jurors of said court when required and drawn as such during the ensuing three (3) 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 one year. (R. L. § 141, amended '13 c. 104 § 1) [275]

129-386, 152+778; 134-311, 159+789.

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229nw 579

229
179m 461

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232. Drawing jury—Fees—Special venire—In all cases 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 the jury shall pay to the clerk at the time fifty cents (50c) 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 person so selected shall be summoned to appear at the appointed time. Each juror sworn as such shall be paid one dollar (\$1.00) 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. (R. L. § 142, amended '13 c. 104 § 1) [276]

233. Fees in criminal cases—What attorneys to prosecute—Fees in civil cases—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 defense 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. Misdemeanors and violations of ordinances or by-laws shall be prosecuted by the city or village attorney, and all other offenses by the county attorney. In civil cases there shall be paid to the clerk of the court a fee of two dollars (\$2.00) by the party entering the suit, which fee shall be accounted for and paid over to the city or village, and shall be in lieu of all fees of the clerk of said court. (R. L. § 143, amended '13 c. 104 § 1) [277]

234. 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. (144) [278]

235. Lien of judgments—Transcripts—Execution, etc.—No judgment of a municipal court shall be a lien upon the 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 docketed in the same county, and thereafter execution may issue from either 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. (R. L. § 145, amended '13 c. 104 § 1) [279]

236. 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. Provided, however, that the time for appeal shall not start to run until the judgment has been perfected, the costs taxed and notice of entry of judgment served upon the adverse party. (R. L. § 146, amended '13 c. 104 § 1) [280]

109-292, 123+809; 143-290, 173+651; 146-358, 178+812; 187+703

160-261, 199+918, note under § 9129, herein.

237. Courts in cities of fourth class—Salary of judge—Organization—Fees—Whenever the common council of any city of the fourth class, where any municipal court heretofore has been or hereafter shall be organized, shall fail to fix the salary of the municipal judge, as provided for by law, or the mayor shall not approve the salary fixed by the council, such judge shall receive as his compensation until such salary shall be so fixed and approved the same fees as is provided for in section 32 of chapter 229 of the General Laws of the state of Minnesota for the year 1895, and shall, in addition to his duties as such judge perform the duties incumbent on the clerk of such municipal court.

The common council in cities of the fourth class, having a population of less than five thousand inhabitants, which heretofore has been or hereafter may be incorporated under the laws of this state, and which have not organized a municipal court at the time of the passage of this act, may by resolution adopted by its common council or governing body and approved by its mayor, organize such a court under and by virtue of and with such jurisdiction and powers as are conferred by chapter 229 of the General Laws of Minnesota for 1895 and amendments thereto, and the judge of any court so organized shall, in addition to his duties as judge, perform the duties otherwise incumbent or imposed by law on the clerk of such municipal court. In addition to the other powers now granted to the common council of any city of the fourth class by law, which powers are not abridged or impaired by anything herein contained, such common council shall have the power to fix the salary of any such judge, which salary may be fixed by resolution adopted by such council and approved by the mayor and shall not be diminished during his term.

Any municipal court to which the provisions of this act shall apply shall be governed as near as may be under and pursuant to the provisions of law applicable to municipal courts, and contained in the Revised Laws of Minnesota, 1905, and the jurisdiction thereof, the practice and procedure therein shall conform as near as may be to the provisions of law applicable to municipal courts contained in the Revised Laws of Minnesota, 1905, provided, however that any municipal court in any city of the fourth class may adopt and follow the practice and procedure prescribed by chapter 229

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233nw 18
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236nw 483
236nw 484
See 9093

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226nw 405
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of the General Laws of Minnesota for 1895, and all proceedings, orders and judgments of such municipal courts which have followed the procedure prescribed by chapter 229 of the General Laws of 1895, and which are otherwise jurisdictional are hereby legalized and validated.

Any common council of any city of the fourth class having a municipal court now organized, or which shall hereafter organize a municipal court to which the provisions of this act may apply, shall have power to fix such reasonable sum, in lieu of all judges' and clerks' fees, to be charged to litigants in civil actions therein, and provide for the collection thereof and the payment of the sum so fixed into the city treasury of such city, and may provide for the collection of fees and the payment thereof into the city treasury, or shall have power to determine that the fees provided for in this act shall be in lieu of and in place of all salary, and shall have power to and may require in cases where salary is paid by the city that such judges collect such fees and pay same into the city treasury and be responsible for such collection.

When fees shall be taxed they shall be taxed and paid as in ordinary cases in courts of justices of the peace and shall be the same in amount as are provided in section 32 of chapter 229 of the Laws of 1895, as hereinbefore stated. ('09 c. 306 § 1, amended '11 c. 10 § 1) [281]

Explanatory note—Laws 1891, c. 146, sub-chapter XI, §§ 1 to 51 provided for municipal courts in villages with a population of over 3,000. These provisions, as amended by Laws 1893, c. 190, § 5, were carried into G. S. '94 as §§ 1357 to 1408. Laws 1899, c. 143 made applicable §§ 1376, 1377 of G. S. '94 to municipal courts in cities having over 2,000 inhabitants. Laws 1903, c. 291, §§ 1 to 40 provided for municipal courts in villages with a population of more than 2,000 and less than 3,000 in counties with a population of more than 50,000 and less than 150,000.

Laws 1895, c. 229, referred to in this section, was an act entitled "An act to establish municipal courts in incorporated cities having a population of less than five thousand (5,000) inhabitants." As amended said Laws 1895, c. 229 reads as follows:

"Section 1. There is hereby established in each incorporated city in the state of Minnesota, having a population of less than five thousand (5,000) inhabitants, a municipal court, for the transaction of all business which may lawfully come before it.

"Sec. 2. Said court shall be a court of record and shall have a clerk and seal, and shall have jurisdiction to hear, try, and determine civil actions at law where the amount in controversy does not exceed five hundred (\$500) dollars. It shall also have exclusive jurisdiction to hear all criminal complaints and conduct all examinations and trials in criminal cases arising or triable within such city heretofore cognizable before a justice of peace or a de facto municipal court, and its jurisdiction shall be co-extensive with the limits of the county in which such city is situated.

It shall not have jurisdiction of actions for divorce, nor of any action when the relief asked for in the complaint is purely equitable in its nature, nor cases involving the title to real estate; nor for false imprisonment, libel, slander, malicious prosecution, criminal conversations or seduction, or upon a promise to marry, nor for an action against an executor or administrator as such, and when in any case pending in said court a counter claim in excess of five hundred (\$500) dollars over plaintiffs' claim, or an equitable defense or ground for equitable relief is interposed, or whenever it shall appear from the pleadings or upon the trial of any cause that the title to real estate is involved, the said court shall immediately cause an entry of the facts to be made of record, and cease all further proceedings in the cause, and order the clerk to certify and return to the district court of the county in which such city is situated a transcript of all entries made in the record relating to the cause, together with all process and papers relating to the cause, and the clerk shall within ten days after being so ordered make such certificate and return; and thereupon such district court shall proceed in the cause to final judgment and execution the same as if said cause had been commenced in said district court, as near as may be, and the costs shall abide the event of the action;

Provided, the clerk of said municipal court shall not make such certificate or return, until the costs chargeable by the clerk shall have been paid.

"Sec. 3. The qualified electors of such city shall at the general city election to be held in such city next after the passage of this act, and at the general city election every fourth (4th) year thereafter, elect a suitable person to the office of said judge of municipal court, who shall be called 'municipal judge,' who shall hold his office for a term of four years and until his successor shall be elected and qualified.

"In case of any vacancy in the office of municipal judge, the governor of the State of Minnesota shall appoint some qualified person to said office until the next general city election, occurring more than thirty (30) days after the vacancy shall have happened, when a judge shall be elected for a full term of four (4) years.

"The governor of the State of Minnesota shall immediately after the passage of this act, and the acceptance of the provisions of the same, as hereinafter provided, appoint some suitable person to said office, who shall hold the same until his successor is elected and qualified.

"The judge of said municipal court shall be a qualified elector of said city.

"Any municipal judge of a city where no general city election is held in the year 1900 and whose term of office expires in the year 1909 shall continue to hold his office until the next general city election, to be held in such city after said year 1900 and until his successor is elected and qualified.

"Any municipal judge of a city where no general city election is held in the year 1901 and whose term of office expires in the year 1901 shall continue to hold his office until the next general city election, to be held in such city after said year 1901 and until his successor is elected and qualified. (Amended '99, c. 137, § 1.)

"Sec. 4. Before entering upon the discharge of the duties of his office, the judge of said court shall take and subscribe an oath as prescribed in the general statutes for judicial officers, which oath shall be filed in the office of the clerk or recorder of said city. He shall have the general powers of judges of courts of record, and may take and certify acknowledgments in all cases, and as a conservator of the peace shall have all the powers and authority which is by law vested in justices of the peace, or any other judicial officer. In all cities where there has been, or may hereafter be, a municipal court established under the provisions of said chapter two hundred twenty-nine (229), at the next general city election, occurring more than thirty days after the passage of this act, or the establishment of such municipal court, there shall be elected by the qualified electors of such cities, a special judge of such municipal court, whose term of office shall be for four (4) years and until his successor is elected and qualified. He shall be a qualified elector of said city and shall take and subscribe the same oath as the municipal judge, which oath shall also be filed in the office of the clerk or recorder of said city. His powers and duties while acting as the judge of said court shall be the same as the municipal judge. In case of a vacancy in the office of special judge, the governor of Minnesota shall appoint some suitable person to fill such office until the next general city election occurring more than thirty (30) days after such appointment. At the request of the municipal judge, or in case of his sickness or absence, or if said municipal judge is interested in or related to any of the parties to any action arising within the limits of said city, then such action may be commenced and tried before such special judge. Said special judge shall not act on the trial or examination of any case, or otherwise, except as above provided, and any such special judge while acting as the judge of said court shall receive as compensation the fees herein provided for the judge of said court. This section shall not incapacitate any such special judge from acting as an attorney in any case or proceeding in said court, but when acting as judge of said court, he shall take no action in said case save to adjourn the same. (Amended '99, c. 102, § 1; '99, c. 271, § 1; '11, c. 127, § 1.)

"Sec. 5. Said municipal court shall have a clerk, who shall be appointed or removed at the pleasure of said judge by an order in the minutes of the court.

"The salary or compensation of said clerk shall be such as such judge shall direct and shall be paid by such judge.

"Such clerk, before he enters upon the duties of his office, shall take an oath to support the constitution of the United States and of the state of Minnesota, and to faithfully and honestly discharge and perform the duties of his office, and shall execute to such city a penal bond in the sum of one thousand (\$1,000) dollars with two sureties to be approved by the mayor of said city conditioned that he will account to and pay over to said city and county, on the first Monday of every month, all fines, penalties, and other moneys belonging to or to go to said city and county, which may have come into his hands during the month next preceding, and that he will, at all times, pay over to all other persons, on demand, all moneys to which they may be entitled, which have come into his hands in virtue or by reason of his said office.

Such oath and bond shall be filed in the office of said clerk or recorder of said city.

"Sec. 6. The municipal court shall have full power and authority to issue all process, civil and criminal, necessary and proper to carry into effect the jurisdiction given to it by law, and its judgments and other determinations, and it shall have and possess all of the powers usually possessed by courts of record at common law, subject to modifications of the statutes of this state applicable to courts of record, except that it shall not have jurisdiction to issue writs of habeas corpus, quo warranto, ne exeat, mandamus, prohibition nor injunction.

All process shall be attested in the name of the judge, and issued under the seal of the court and signed by the clerk, who shall be styled "clerk of the municipal court," and the forms of process may be prescribed by the court by rule or otherwise, and any form so prescribed shall be valid and sufficient, and such form may be changed by the court from time to time in the absence of such prescribed form of process in use in courts of record in this state or by justices of the peace.

Process may be directed for service to any police officer, marshal or constable of the city, or to the sheriff of the county, or to any or all of them.

"Sec. 7. The municipal court shall be held in said city at some suitable place, to be provided therefor by the city.

"Its judge shall be the chief magistrate of the city, and shall see that the criminal laws of the state, and the ordinances, laws, regulations and by-laws of said city are observed and executed, and for that purpose shall open his court at any time, Sundays and legal holidays excepted, and proceed to hear and dispose of in a summary manner, all causes which shall be brought before him by the police officers or marshals of the city, or otherwise, either with or without process, for violations of the criminal laws of the state, committed within the county in which said city is situated, or of the ordinances, laws, regulations or by-laws of said city.

"The clerk of said court shall keep a record of all its proceedings and enter all orders, judgments and sentences under the supervision of the judge, and issue commitments and executions, as well as other process; but said city shall furnish all dockets, civil and criminal, document files and file cases, printed blanks and such other supplies as may be necessary for the use of such court or the preservation of its records. (Amended '09, c. 379, § 1.)

"Sec. 8. The clerk of said municipal court shall have the custody and care of all the books, papers and records of said court.

He shall be present at all trials, unless absent from sickness or with consent of the judge, and in case of his absence the judge may appoint some person temporarily in his place.

He may swear all witnesses and jurors and administer all oaths and affidavits, and take acknowledgments.

He shall keep minutes of all proceedings and enter all judgments, and make up and keep the records of the court under the direction of the judge.

He shall tax all costs and disbursements allowed in any action, subject to review by the judge, and do all other things and acts necessary and proper to the enforcement and carrying out of the jurisdiction of the court, and when the judge is not present, adjourn the court from day to day.

He shall receive all fines and penalties, and all fees of any kind, accruing to the court or clerk, and keep full, accurate and detailed account of the same; and shall, on the first Monday of every month, deliver and pay over to the treasurer of the city all moneys so received for fines and penalties imposed for violations of the ordinances, regulations and by-laws of said city, with detailed accounts thereof, under oath, and take from such treasurer a duplicate receipt for such payments, one of which receipts he shall forthwith file in the office of recorder or clerk of such city.

He shall on the same day of each month deliver and pay over to the treasurer of the county all moneys received by him for fines and penalties imposed for violations of the criminal laws of this state, and take from such treasurer a duplicate receipt for such payments, one of which receipts he shall forthwith file with the auditor of such county.

"The clerk of said court may, when he deems the same necessary, appoint, with the sanction of the judge, a deputy clerk of said municipal court, for whose acts the said clerk shall be responsible, and said deputy shall be appointed under the hand of said clerk and seal of said court, with the sanction of said judge endorsed upon the back of said appointment; and before any deputy clerk of said court shall enter upon the duties of his office, he shall take and subscribe the same oath prescribed and required to be taken by the clerk of said court, which oath, together with the appointment of such deputy clerk shall be filed in the office of recorder or clerk of said city, and the clerk of such court, or the judge thereof, may at any time remove any deputy appointed under the provisions of this act.

"The deputy clerk of said court shall be paid by the clerk.

"He may administer oaths, take acknowledgments and perform all duties pertaining to the office of clerk of said municipal court.

"Sec. 9. The municipal court shall hold regular terms for the trial of civil actions on the first Tuesday of each month, which term shall continue from day to day, with such adjournments as to the court may seem proper, until the business of each term shall be finished; and the court may by rule or order appoint such terms to be held oftener or upon other days than the days above mentioned.

"Sec. 10. All civil actions for the recovery of money only shall be commenced by summons to be issued by the clerk.

The form of the summons may be as follows:

STATE OF MINNESOTA ss. City of.....
County of..... Municipal Court.

The State of Minnesota to any police officer of said city, or to the sheriff or any constable of said county.

You are hereby commanded to summon if he shall be found within the county of to be and appear before the municipal court of the city of at a term thereof to be holden on the day of 18....., at the hour of o'clock in the forenoon, and answer to in a civil action whose complaint is on file in said court, and have you then and there this writ.

(I. S.) Witness the Honorable municipal judge, this day of 18.....

.....
Clerk of municipal court.

Or the summons may be in any other form which the court may by rule prescribe, and shall be served upon the defendant at least six (6) days before the commencement of the term at which the same is made returnable.

"Sec. 11. The summons in this court shall be served in the same manner as prescribed by statute for the service of summons in the district courts of this state, in all cases or classes of cases whereof this court has jurisdiction, except that in service of summons by publication the period of such publication shall be three (3) consecutive weeks instead of six (6). (Amended '09, c. 271, § 2.)

"Sec. 12. All pleadings in said municipal court shall be in writing. If the defendant fails to appear at the opening of the court on the day on which the summons is made returnable, judgment may be entered against him for an amount not exceeding that mentioned in the complaint and for costs and disbursements, except that when the action is for unliquidated damages or relief, the plaintiff shall obtain such judgment, only as he shall show himself entitled to by evidence and proof.

"If he so appear, he shall then, or at such time as the court may designate, by rule or otherwise, answer the complaint; and if the answer contain a counterclaim or new matter, the plaintiff shall reply thereto forthwith, or at such time as the court may, by rule, or otherwise, designate.

"The answer and reply shall be in writing and filed with the clerk, and such pleading shall be verified by the party, his agent or attorney either as in courts of justices of the peace or in the district courts of this state.

"Sec. 13. Either party may demur to any pleadings of his adversary, as in the district court, except that the demurrer to any pleading shall be filed within the same time allowed for filing an answer or reply to such pleading.

"Sec. 14. All pleadings shall be construed liberally, and technical objections shall be disregarded.

"Sec. 15. The court may for good cause, in its discretion, and upon such terms as it may deem equitable, open any default at the same term at which it may have occurred, or allow an amendment of any pleading at any time, and shall disregard variance between the allegations of a pleading and the evidence, unless satisfied that the adverse party is prejudiced thereby.

"Sec. 16. Either party shall be entitled to a continuance of a civil action, except actions for forcible entry and unlawful detainer, until the next term of the court following the term at which the summons is made returnable; and further continuance may be granted upon sufficient cause shown and on such terms as may be just.

"Sec. 17. Said court shall have authority to order that the plaintiff, in any civil action in which a justice of the peace would have jurisdiction, and when the amount is beyond the jurisdiction of a justice of the peace when the plaintiff is a non-resident of this state, shall, by bond, recognizance, or deposit of money with the clerk, give security for the costs in such sums as the court may designate; when the plaintiff in any cause shall neglect or refuse to so give such security when ordered, the court may dismiss such cause at the cost of said plaintiff.

"Sec. 18. Costs shall be allowed in actions determined in said court to the prevailing parties as follows: To the plaintiff upon a judgment in his favor of one hundred (100) dollars or more, or in actions of replevin when the value of the property is one hundred (100) dollars or more, when no issue of fact or law is joined, five dollars; when an issue is joined, ten dollars.

"To the defendant, when the amount claimed in the complaint is one hundred (100) dollars or more, upon discontinuance or dismissal, five dollars; when judgment is rendered in his favor upon the merits, in such case, ten dollars.

Provided, that a defendant who has appeared in an action in any court existing under and by virtue of the provisions of this act or created by any special law of this state may at any time before trial offer to allow judgment to be taken against him for the sum or property in said offer specified, with costs. If the plaintiff accepts the offer the court shall thereupon enter judgment accordingly. If the plaintiff refuses to accept the offer the same is deemed withdrawn, and cannot be given in evidence; and if the plaintiff fails to obtain a more favorable judgment he cannot recover costs or disbursements made subsequent to such offer, but must pay the defendant's costs and disbursements incurred subsequently to such offer. (Amended '99, c. 271, § 3; '01, c. 161, § 1.)

"Sec. 19. Costs and disbursements shall be taxed and allowed either by the clerk or judge of said court, in the same manner provided by law for the taxation of costs and disbursements in courts of justices of the peace. (Amended '99, c. 271, § 4.)

"Sec. 20. Any creditor desiring to proceed by attachment in said court, may, at the time of commencing the action, or thereafter and while the action is still pending, by himself, his agent or attorney, make and file with the clerk an affidavit similar to the affidavit required by law in the application for a writ of attachment in a justice court, and also cause to be filed with the clerk a bond with sufficient sureties to be approved by the judge, court commissioner or any justice of the peace of the county in which said city is situated; except that in cases not within the jurisdiction of a justice court the limit of liability thereon shall be mentioned therein as not exceeding the sum of two hundred fifty dollars. The writ of attachment may be in form as follows:

STATE OF MINNESOTA, ss. City of
County of Municipal Court.

The State of Minnesota to any police officer in the said city of or to the sheriff or any constable of said county:

You are hereby commanded to attach the goods, chattels, moneys, effects and credits of or so much thereof as shall be sufficient to satisfy the sum of with interest and costs of suit, in whoever's hands or possession the same may be found in said county, and so provided that the same may be subject to further proceedings as the law requires; and make due return of his writ.

Witness the Honorable judge of said court, this day of

Clerk.

"Or the writ may be in any other form that the court may prescribe by rule or otherwise.

"In all other respects, save as in this act otherwise provided, the service of the writ and other proceedings thereon shall be similar, as near as may be, to the service of such writ and proceedings in the justice court.

"Sec. 21. The defendant may at any time before the time for answering expires, or at any time thereafter, when he has answered, before the trial, apply to the court, on five days' notice, to vacate the writ of attachment.

If the motion is made upon affidavits on the part of the defendants, but not otherwise, the plaintiff may oppose the same with counter affidavits.

"Sec. 22. The plaintiff in an action to recover possession of personal property may, at the time of the issuing of the summons, or at any time before answering, claim the immediate delivery of such property.

The plaintiff, his agent or attorney, shall make and file an affidavit, similar to the affidavit required in the justice court in like case.

"The plaintiff, or some person in his behalf, shall execute a bond with sufficient sureties, to be approved by the judge, court commissioner or a justice of the peace of the county in which said city is situated, conditioned, similar to the bond required in such case in the justice court, as near as may be, and file such bond, and an action may be maintained on such bond as upon similar bonds filed in like actions in justice courts.

"The clerk shall thereupon issue the writ, which may be in form as follows:

STATE OF MINNESOTA, ss. City of
County of Municipal Court.

The state of Minnesota to any police officer of said

city of or the sheriff or any constable of said county.

Whereas, complains that has become possessed of and unjustly detains from the following described goods and chattels, that is to say: (Particularly describing the articles and value.) Therefore, you are hereby commanded to cause the said goods and chattels to be replevied without delay, and deliver the same to the said and return this writ to the court within days, together with the return of your proceedings thereon.

Witness, the Honorable municipal judge, this day of A. D. 18....

(L. S.)

Clerk of the municipal court.

"Or the writ may be in any other form that the court may prescribe, by rule or otherwise.

"Sec. 23. The writ mentioned in the preceding section shall be served and all proceedings thereunder had, as near as may be consistent with the practice of this court, in the same manner as in the proceedings in replevin in the justice court; but the times of trial and the forms of pleadings shall be the same as in other actions in this court.

"The officer executing the writ shall retain the property taken under it in his custody for three days before delivering the same to plaintiff; and if within that time the defendant, or some one in his behalf, shall execute to the plaintiff a sufficient bond in amount equal to the bond filed by the plaintiff, with sufficient sureties, to be approved by the judge, court commissioner or a justice of the peace of the county in which said city is situated, conditioned as in like cases in the district court and file such bond, the clerk shall thereupon issue an order to the officer to deliver such property to the defendant.

"Sec. 24. The defendant may except to the sufficiency of the plaintiff's sureties within the same time and in the same manner as in proceedings of claim and delivery of personal property in district court, and when defendant so excepts, the same proceedings shall be had as in like actions in the district court, except that the justification of sureties be had before the judge of said municipal court or the court commissioner or a justice of the peace of the county in which such city is situated.

"The qualifications of sureties shall be the same as required in like actions in the district court.

"Sec. 25. The clerk of said court shall, prior to each term of the court, make up a calendar of the causes which shall come up for trial, or for any disposition before the court, at such term, adopting such arrangement as the judge may direct; and the court shall direct the order of trial, and other disposition of causes.

"Sec. 26. In all actions where either party demands a trial by jury, such jury shall be drawn and empanelled in the same manner as in justice courts, and the laws of this state relative to trial by jury in justice courts shall apply to this court; provided that the judge of said court may direct the chief of police or any police officer or marshal of said city to perform the duties prescribed to be performed by the sheriff or constable in justice courts.

"Sec. 27. Depositions may be taken and read in evidence in said court as in justice courts, and all laws relative to depositions in justice courts shall apply to said municipal court.

"Sec. 28. Title eighteen of chapter sixty-six of the general statutes of eighteen hundred seventy-eight, and title nineteen of the same chapter, shall apply to said court; and said court shall have jurisdiction of actions of forcible entry and unlawful detainer, and may fix return days for such actions other than the regular term days of said court; and chapter eighty-four of the general statutes of eighteen hundred and seventy-eight, shall apply to said court, and the practice shall be the same in such cases, as near as may be, to similar proceedings in justice courts.

"Sec. 29. Proceedings against garnishee may be instituted in the same manner as in justice courts, but the summons may be served either by an officer authorized by this act to serve process, or by any person not a party to the action, at any place within the state of Minnesota; and the summons may be made returnable at any term of said court which may be named therein; and the notice required to be served on the defendant may be signed by either the clerk of said court, or the person serving the garnishee summons, or the plaintiff or his attorney.

"The disclosure of the garnishee may be taken and all further proceedings had in the same manner as if the proceedings were in the district court, except that the examination of the garnishee shall be before the judge of said court or a referee by him appointed.

"Sec. 20. No judgment rendered in said municipal court shall attach as a lien upon real estate until a transcript thereof shall be filed in the district court, as hereinafter provided; but writs of execution thereon

may issue against the goods and chattels of the judgment debtor, returnable within thirty days, as in justice courts, the provisions for renewals of executions in district court shall apply to this court, except that such renewal shall extend the life of the execution for only thirty days from the date of such renewal, and except that no renewal of such execution shall be made by the clerk until the fee of twenty-five cents therefor shall have been paid.

"Every person in whose favor a judgment is rendered in said municipal court for an amount exceeding five dollars besides costs may, upon paying the fee therefor, demand and shall receive from such clerk a transcript of the docket entries of such judgment, duly certified, and may file the same in the office of the clerk of the district court in and for the county in which said city is situated, who shall file and docket the same, as in the case of transcripts of judgments from courts of justices of the peace.

"And every such judgment shall become a lien upon the real estate of the debtor from the time of filing such transcripts to the same extent as a judgment of said district court, and shall thereafter be exclusively under the control of said district court and carried into execution by its process, as if said judgment had been rendered in said district court, the clerk of said municipal court shall not issue such transcript while a writ of execution is outstanding, in the hands of an officer, or otherwise, and shall note on the record of said judgment the fact that such transcript has been given; and shall not thereafter, issue any writ of execution on the same judgment, but may, at any time after the first transcript is issued, give to any party applying therefor, upon such party paying the clerk's fee therefor, a new transcript, and the clerk shall note the record of each transcript given upon such judgment.

"Sec. 31. Complaints in criminal cases, where the defendant is not in custody, may be made to the judge or clerk, in writing, or reduced to writing by the judge or clerk, and sworn to by the complainant whether the offense charged be a violation of the criminal laws of this state, or of the ordinances, regulations or by-laws of said city; and the clerk shall issue a warrant only upon the order of the judge indorsed upon the complaint, and complaints, warrants and all other process in criminal cases may follow substantially the same forms heretofore in use by justices of the peace, with such alterations as may be convenient to adapt the same to the style of said municipal court, or may be in such other form as the court may prescribe, sanction or approve.

In all cases where alleged offenders shall be in custody and brought before the court without process the clerk shall enter upon the records of the court a brief statement of the offense with which the defendant is charged, which shall stand in place of a complaint unless the court shall direct a formal complaint to be made. The plea of the defendant shall be "Guilty" or "Not guilty."

In case of a failure to plead the clerk shall enter a plea of "Not guilty," and a former acquittal or conviction for the same offense may be proved under the plea as well as if formally pleaded.

In the examination of offenders charged with indictable offenses the clerk shall keep such minutes of the examinations as the court shall direct and shall make the proper return to the court before which the party charged with the offense may be bound to appear.

Sec. 32. For section 32, as amended, see *infra*, § 239.

"Sec. 33. The clerk shall not be required to enter any judgment in any cause, nor perform any services required of him in any cause, as such clerk, after the entry of judgment therein, until the fees therefor shall have been paid.

"Sec. 34. The judge of said municipal court shall hold no other office under said city, and no law partner of said judge shall practice before said court.

"Sec. 35. The city attorney of said city shall have charge of the prosecution of all criminal cases before said court wherein the defendant is charged with the violation of the city charter, or any ordinance or by-law of the city, and the county attorney of the county in which said city is situated shall act in the prosecution or examination of offenders charged with other offenses, when required by law to prosecute in like cases before a justice of the peace.

"Sec. 36. In all criminal cases tried in said court and in examination of the persons therein charged with crime, the clerk shall tax costs and fees as hereinbefore provided in this act; and when said court has final jurisdiction, and the defendant is convicted the clerk shall tax the said costs as part of the costs against the defendant and include the same in the judgment to be entered against him.

"Sec. 37. In all examinations of persons charged with crime under the laws of this state, and in all trials of criminal cases under such laws, when the defendant is acquitted and when he is convicted and does not pay his fine and the costs accruing therein after the first determination of said cause, the clerk shall make out an

itemized bill of the costs accruing in said case, in such examination, in said municipal court, certified to under his hand and the seal of said court, and file such bill with the auditor of the county in which the city is situated, who shall upon such presentation draw his warrant upon the treasurer of such county for the amount of the bill so presented, in favor of the judge of said court, and the treasurer shall forthwith pay the same, and it shall be the duty of the judge of said court to disburse the costs so accruing in each criminal cause or examination to the persons entitled thereto; if at any time after the conviction or examination of such defendant he shall pay the fine and costs accruing therein to said municipal court, it shall be the duty of the judge of said court to forthwith pay the same to the county treasurer taking his receipt therefor in duplicate and file one with the auditor of said county.

"In all trials of criminal cases under the ordinances, by-laws and regulations of said city, where the defendant is acquitted and when he is convicted and does not pay his fine and the costs accruing therein, after the final determination of said cause, the clerk shall make out an itemized bill of the costs accruing in said case, in said municipal court, certified to under his hand and the seal of said court, and file such bill with the recorder or clerk of said city, who shall, upon presentation, draw his order upon the treasurer of said city for the amount of the bill so presented in favor of the judge of said court, and the treasurer of said city shall forthwith pay the same, and it shall be the duty of the judge of said court to disburse the costs so accruing in each criminal cause to the persons entitled thereto. If, at any time after the conviction of such defendant he shall pay the fine and costs accruing therein to said municipal court, it shall be the duty of the judge of said court to forthwith pay the same to the treasurer of said city, taking his receipt therefor in duplicate and file one with the recorder or clerk of each city. (Amended '03, c. 49, § 1.)

"Sec. 38. All appeals from any judgment, order or action of said court shall be had to the district court of the county in which such city is situated, in like manner and under the same rules of practice and procedure as in cases of appeal from justice to district courts, the general laws of this state relating to appeals from justice courts, and the laws relating to proceedings for contempt before justices of the peace shall apply to this court.

"Sec. 39. Any city in the class mentioned in the title of this act which may wish to avail itself of the provisions of this act shall do so by a resolution of its common council, expressly accepting the provisions hereof, which resolution shall be adopted by vote of four-fifths of all the members of such council, and be approved by the mayor of such city; and this act shall not apply to any such city until the adoption as aforesaid of such resolution.

Provided, that any city of the class mentioned in the title of this act now having a municipal court organized and established under any special law of this state may, upon the repeal of said special law, in like manner avail itself of the provisions of this act, and the municipal court so established under the provisions of this act shall succeed said municipal court established by special law and so repealed, and take cognizance of all the causes and proceedings therein as if the same were originally commenced in said court, and shall have power to enforce by execution or otherwise any and all process and judgments heretofore rendered by said court. (Added '97, c. 140, § 1.)

"Sec. 40. This act shall take effect and be in force from and after its passage.

"Sec. 41. It shall be lawful for the judge of said municipal court, or the special judge while acting as judge, to perform any and all the duties provided in this act to be performed by the clerk of said court, including the signing and issuing of any and all process or papers in his own name as judge or special judge, as the case may be." (Added '99, c. 271, § 5.)

Laws 1897, c. 140, § 2 (§ 1 of which amended Laws 1895, c. 229, § 39, by adding the proviso) reads as follows: "It shall be and it is hereby made the duty of the judge of any municipal court, existing and established under any special law, said special law being repealed, to turn over to the judge of the court established under the provisions of this act, all of the dockets, records, files and papers and the seal of said court and all other property belonging to said court in his custody or possession."

238. Same—Certain courts legalized—Any municipal court heretofore organized or attempted to be organized in any city of the fourth class under any law, and now existing and performing the duties of such court is hereby legalized and the organization thereof in all things performed. ('09 c. 306 § 2) [282]

239. Fees to be charged by municipal courts—In all proceedings had in said municipal court the following

fees shall be charged and collected by the judge or clerk as and for the compensation of the judge, and said fees may be taxed in all cases where applicable, as follows:

For summons, warrant or subpoena, thirty-five (35) cents.

For venire for a jury, fifty (50) cents.

For a warrant in a criminal case, thirty-five (35) cents.

Taking a recognizance, thirty-five (35) cents.

Administering an oath, twenty-five (25) cents.

Certifying the same when administered out of court, twenty-five (25) cents.

For a writ of attachment, thirty-five (35) cents.

For hearing and deciding every motion for a new trial, every demurrer, and every motion to open a default, one (\$1) dollar.

Appeal from taxation of costs, one (\$1) dollar.

Entering a judgment, one dollar (\$1).

Every adjournment, twenty-five (25) cents.

Every bond, recognizance or security directed by law to be taken by judge of court, thirty-five (35) cents.

Taking an examination, deposition or confession, or entering any cause in docket, per folio, fifteen (15) cents.

For copy of any paper, proceeding or examination in any case, when demanded, per folio, fifteen (15) cents.

Entering a satisfaction of judgment, twenty-five (25) cents.

Issuing a commission to take testimony, fifty (50) cents.

Entering any order or exception thereto, ten (10) cents.

Entering amicable suit without process, thirty-five (35) cents.

For transcript of judgment, thirty-five (35) cents.

Opening a judgment for rehearing, thirty-five (35) cents.

Filing every paper required to be filed, ten (10) cents.

Issuing notice to take deposition, thirty-five (35) cents.

Taking recognizance, certifying oath or affidavit and making return to district court, per folio, fifteen (15) cents.

For search warrant, thirty-five (35) cents.

For commitment to jail, thirty-five (35) cents.

For an order to bring up prisoner, thirty-five (35) cents.

For an order to discharge prisoner issued to jailer, thirty-five (35) cents.

Discharging a prisoner, after hearing a motion to discharge, twenty-five (25) cents.

For an execution, thirty-five (35) cents.

For every other writ not herein enumerated, thirty-five (35) cents.

For every affidavit or other paper drawn by the judge or clerk, for which no other allowance is made by law, per folio, fifteen (15) cents.

Taxing costs, twenty-five (25) cents.

For marrying and making return thereof, three (\$3) dollars, and such other sum as may be allowed by the parties making the application.

Holding an inquisition in cases of forcible entry and unlawful detainer, in addition to other fees, one (\$1) dollar.

Taking and certifying the acknowledgment of a deed, for each grantor named therein, twenty-five (25) cents.

For traveling to perform any duty, when not otherwise provided for and such travel is necessary, per mile, going and returning, ten (10) cents. ('95, c. 229, § 32; amended '19, c. 318)

Explanatory note—See supra, note to § 237.

240. Form of summons in municipal court—The summons in Municipal Court in villages and cities of the fourth class, however organized, except such cities and villages as have heretofore or may hereafter establish a Municipal Court under the provisions of Chapter 229, Laws of Minnesota for the year 1895, shall be subscribed by the plaintiff or his attorney; it shall be directed to the defendant and require him to serve his answer to the complaint on the subscriber by copy, thereof at a specified place within the state where there is a post office, within ten days after the service on him of such summons, exclusive of the day of service, it shall also notify him that the complaint is either attached thereto or on file in the office of the clerk of said court and it shall also notify him in substance, that if he fails so to serve his answer;

1. If the action be for the recovery of a debt or a liquidated money demand only, that the plaintiff will take judgment for the amount specified therein.

2. In other actions that he will apply to the court for the relief demanded in the complaint. ('19 c. 389 § 1, amended '21 c. 119 § 1)

Explanatory note—See supra, note to § 237.

241. Courts in cities of first class—Probation officer, etc.—In each city of the first class not operating under a home rule charter pursuant to section 36, article IV, of the state constitution, a probation officer shall be appointed by the judges of the municipal court of said city. Such officer may appoint one or more deputies, subject to approval by said judges. Each shall serve four (4) years, unless sooner removed by said judges for cause. ('13 c. 424 § 1) [283]

242. Same—Powers and duties—Such officer, or his deputy, shall be present at every session of said court. He shall receive all persons placed on probation by said court and committed to his care during such probation period and perform such acts with reference to them as the judgment of the court may direct. He shall not be a regular member of the police force, but in the execution of his official duties shall have all the power of a police officer. ('13 c. 424 § 2) [284]

243. Same—Reports—Every such probation officer shall report in writing to the court as often as required by it, with reference to the condition, disposition and other pertinent facts relative to the persons under his care. ('13 c. 424 § 3) [285]

244. Same—Offices, etc.—The city council of said cities shall provide such officer and his deputies with suitable furnished offices in the building where such courts are held, with record books, blanks, stationery, postage and other expenses required for the proper execution of the purposes of this act. ('13 c. 424 § 4) [286]

245. Salary of probation officer—Such probation officer shall receive as full compensation for his services, twenty-seven hundred dollars per annum, and each deputy such amount as shall be fixed by the judges of said court not exceeding twenty-two hundred dollars per annum. Such salary shall be payable in equal semi-monthly installments out of the city treasury. ('13 c. 424 § 5, amended '23 c. 413 § 2) [287]

COURT COMMISSIONER

246. 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 quali-

fies. One person may hold at the same time the offices of court commissioner and probate judge. (147) [288]

247. 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. Among other powers conferred by law, they are empowered to issue writs of habeas corpus, to take acknowledgments of deeds and other written instruments, to take depositions and certify to the same, to perform the marriage ceremony, to take disclosures in garnishment proceedings pending in the district court, and orders for the examination of judgment debtors in proceedings supplementary to execution may be made returnable before the court commissioner. (R. L. § 148, amended '09 c. 59 § 1) [289]

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; 131-129, 154+748.

To be eligible to the office of court commissioner a person need not be an attorney at law. 209+327.

248. 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. (149) [290]

249. Records—Clerical help—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 unused stationery shall be delivered to his successor; and in counties having a population of two hundred thousand and over shall be supplied with a suitable office and such clerical help as may be deemed necessary by the board of county commissioners. (R. L. '05 § 150 amended '15 c. 203 § 1) [291]

250. 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. (151) [292]

PROBATE AND JUSTICE COURTS

251. 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. (152) [293]

133-124, 158+234.