1940 Supplement

To

Mason's Minnesota Statutes 1927

(1927 to 1940)

(Superseding Mason's 1931, 1934, 1936 and 1938 Supplements)

Containing the text of the acts of the 1929, 1931, 1933, 1935, 1937 and 1939 General Sessions, and the 1933-34, 1935-36, 1936 and 1937 Special Sessions of the Legislature, both new and amendatory, and notes showing repeals, together with annotations from the various courts, state and federal, and the opinions of the Attorney General, construing the constitution, statutes, charters and court rules of Minnesota together with digest of all common law decisions.

Edited by

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Assisted by

The Publisher's Editorial Staff

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§126

CH. 4—EXECUTIVE DEPARTMENT

of such charge before any judge of any District Court of this state such Court may cause such official or head of a department to be removed upon proof being duly made of the misappropriation or for any other purpose than for which the appropriation was made, except in an emergency and then only with the approval of Commission of Administration and Finance. ( Apr. 24, 1937, c. 457, §8.)

Sec. 41 of Act Apr. 24, 1937, cited, provides that the Act shall take effect from its passage.

Appropriation can only be expended for purposes stated except in emergency, and what constitutes an emergency is a matter for both official or head of department and commission of administration and finance to agree upon. Op. Atty. Gen. (Sa-3), June 7, 1937.

126. Board of Relief. **

2. Certificates of indebtedness for relief of distress authorized. — The state board of relief is hereby authorized to take any measures necessary to prevent or prevent any impending disaster which threatens to destroy life or property in this state, to grant relief or temporary assistance to communities in this state stricken by disease, flood, storm, fire (or) action of the elements, or severe economic distress causing destitution of families or individuals or disabled persons, or prevent the occurrence or spread of any such calamity or disaster which might entail loss of life or property or result in great suffering and hardship among the people of this state, and in any such event, it shall have the authority to commandeer and take for use, in any such emergency, any property, vehicle, motor car or any means of transportation by rail or water or any means of communication or any public service, which in the opinion of the said board might be necessary to save life or property or prevent or prevent any such impending disaster or furnish assistance or relief to communities in this state, so stricken, or for the prevention of any such calamity or disaster so taken shall be given a receipt for the same and shall be paid for the use of such property or for any damage which might be caused to the same while in the service of the state board. (As amended Apr. 21, 1933, c. 355.) **

6. Loan Authorized.—For the purpose of carrying out the provisions of this act, whenever an emergency exists, the board of relief hereby created is authorized to borrow such a sum of money, not exceeding seven hundred fifty thousand dollars ($750,000), as shall be in its judgment necessary and sufficient. (As amended Apr. 21, 1932, c. 355.) **

This act does not authorize the State Board of Relief to take a note for seed grain furnished by the state to a farmer without such grain or means to procure it because of the excessive floods which occurred in Marshall county in the year 1919, 172M544, 215NW516.

By receiving the grain from the state and by giving his note therefor, defendant held not to have become entitled to the grain from denying liability on the note. 172M544, 215NW516.

2. Authority. Executive council has power to place unemployed persons upon farms and furnish them with animals, machinery, feed and furniture to get them started. Op. Atty. Gen., May 30, 1933.


Act creating Lincoln-Lyon tornado relief commission, defining powers respecting relief to tornado swept district. Laws 1931, c. 130.


128-2. State Geographic Board established.—There is hereby established a State Geographic Board which shall consist of the Commissioner of Conservation, the Commissioner of State Highways, and the Superintendent of the Minnesota Historical Society. (Mar. 8, 1937, c. 63, §1.)

128-3. Powers and duties.—It shall be the duty of the State Geographic Board and it shall have power and authority:

(a) To determine the correct and most appropriate names of the lakes, streams, places and other geographic features in the state, and the spelling thereof;
(b) To pass upon and give names to lakes, streams, places and other geographic features in the state for which no single generally accepted name has been in use;
(c) In cooperation with the county boards and with their approval, to change the names of lakes, streams, places and other geographic features, with the end in view of eliminating, as far as possible, duplication of names within the state;
(d) To prepare and publish an official state dictionary of geographic names and to publish the same, either as a completed whole or in parts when ready;
(e) To serve as the state representatives of the United States geographic board and to cooperate with the said board to the end that there shall be no conflict between the state and federal designations of geographic features in the state. (Mar. 8, 1937, c. 63, §1.)


128-4. Names given to be official.—Whenever the State Geographic Board shall have given a name to any lake, stream, place and other geographic feature within the State, such name shall be used in all maps, records, documents and other publications issued by the State or any of its departments and political subdivisions, and such name shall be deemed the official name of such geographic features. (Mar. 8, 1937, c. 63, §§.)

128-5. County boards naming geographic features must have approval of Geographic Board.—No County Board shall order the change of or establish the name of any lake, river, or other body of water without the written approval of the State Geographic Board endorsed on any resolution determining or fixing said name, which endorsement must be made on the same prior to recording with the Register of Deeds. (Mar. 8, 1937, c. 63, §4.)

128-6. Inconsistent acts repealed.—All acts or parts of acts now in effect inconsistent with the provisions of this act are hereby superseded, modified or amended to conform to said act and give full force and effect to the provisions of this act. (Mar. 8, 1937, c. 63, §5.)

Sec. 6 of Act Mar. 8, 1937, provides that the act shall take effect from its passage.

CHAPTER 5

Judicial Department

SUPREME COURT

trict Court of Brown County, 194M595, 261NW701. See Dun. Dig. 5794a, 10126, 10127, 10129.

Granting of leave to a municipal corporation to file an application for writ of prohibition, notwithstanding refusal of attorney general to apply for writ or to consent to its filing, lies in sound discretion of court, and that discretion should be exercised favorably, and leave granted where one municipal corporation, on grounds prima facie valid, seeks to restrain, with respect to proceedings by another to take over and include within its limits territory belonging to former, issue so raised being one of public rather than mere private interest. State v. City of Chisholm, 196M5285, 264NW789. See Dun. Dig. 8075.

Supreme court has power to grant leave to file information with a view to test propriety of dividing land within boundaries of a city over objection of the attorney general. State v. City of Chisholm, 191M5285, 261NW701. See Dun. Dig. 8076.

In quo warranto by one town attacking taking in of additional territory by another town, issue so raised being one of public rather than mere private interest, and upon hearing thereof, court may award injunctive relief thereon. City of Chisholm v. City of Chisholm, 191M5285, 261NW701. See Dun. Dig. 8077.

1. One to each Judge of the District, Probate, and County Court. 2. One to the Attorney General, one volume for each set of reports in use in the department.

2. One to the County Attorney, one volume for each set of reports in use in the district.

3. One to the District Court, for the use of the court when in session, and otherwise for the official use of the court.

3 ½. One copy to the Industrial Commission of Minnesota.

One hundred and sixty copies 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. (Am. Mar. 23, 1927, c. 51, §1.)

The Act as above cited, provides that the Act shall take effect from its passage.

DISTRIBUTION.

154. Jurisdiction.

The federal district court has no discretion to refuse to hear and determine cases removed from a state court and based on the Federal Employers' Liability Act and arising out of injury to an employee of a common carrier, where the injury was caused by the negligence of an employee of the carrier. However, it does not require the court to respect an injunction granted by the state court in effect when the federal court acquired no jurisdiction of the cause upon its removal. Block v. S.. (DC-Minn), 27FSupp599. See Dun. Dig. 154.

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Public policy requires that officers and agents of the government, in conducting a business or engaging in activities from the performance of their official duties, shall not be held answerable in court proceedings for dismissal of plaintiffs. Kerston v. J.. 185M591, 242NW329. See Dun. Dig. 155.

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Act of president of a national bank in receiving money and approving checks was not within the jurisdiction of the federal district court. The former, and it is the duty of such court to assume jurisdiction and bring the case to trial. Merson Co. v. G., (DC-Minn), 27FSupp399. See Dun. Dig. 156.

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acquiring jurisdiction. State v. District Court, 195 M 183, 262 NW 156. See Dun. Dig. 2758.

It is essential to authorize a district court to proceed to determine questions, that it have jurisdiction over parties and over subject-matter. Fulton v. O., 195 M 247, 262 NW 159. See Dun. Dig. 2752.

A civil suit cannot be brought against partners of a firm, to recover on liabilities of firm and of surviving partner, without jurisdiction of district court, or as a probate court. Id.

When any court, competent to exercise its jurisdiction, adjourns or postpones a cause, that jurisdiction continues to the end. Weisman v. M., 195 M 274, 267 NW 211. See Dun. Dig. 2755.

Inasmuch as a whole field of domestic relations, including those between parents and children, is reserved to states, state courts have jurisdiction over the partition of property of the deceased within a county of such district, governor may not designate an outside judge to preside thereat, it appearing that there is no reason why the presiding judge has not full leisure to study details of the facts, and such duty is judicial in character. State v. Montague, 195 M 278, 262 NW 684. See Dun. Dig. 2758.

A determination of interference by the Patent Office is within judicial power. Skrivanek v. B., 195 M 141, 269 NW 111. See Dun. Dig. 2758.

Where mode of acquiring jurisdiction is prescribed by law, any substituted officer or judge must exhaust remedies within organization that only aggrieved member thereof feels aggrieved by the action of the organization or its officers, that such member first exhaust all remedies open to him within the organization, are valid, if the remedies so provided are reasonable. Skrivanek v. B., 193 M 141, 269 NW 111. See Dun. Dig. 2758.

It does not invalidate provisions of labor organization, with the exception that member must exhaust remedies within organization that only aggrieved member himself or some other member acting on his behalf is permitted to appear before tribunals of organization in any dispute. Id.

A union's decision to decide power to decide erroneously as well as correctly. Reid v. I., 200 M 3595, 275 NW 330. See Dun. Dig. 2755.

Whenever attention of court is called to absence of a jurisdiction to make a judgment, it should, if possible, refer to the proceedings which have been made to hearing and submission of motion. Id. See Dun. Dig. 2755.

Where presiding judge has made an order designating a particular judge to act, that order shall not be void because the defendant in a determination of facts, and such duty is judicial in character. State v. P., 194 M 256, 262 NW 684. See Dun. Dig. 2758.

A state court may dismiss proceedings on motion. Dollenmayer v. R., 286 NW 297. See Dun. Dig. 2755.

Improper motives may lead to denial of relief in quo warranto, even though relator is attorney general. State v. Crookston Trust Co., 200 M 151, 262 NW 359. See Dun. Dig. 2758.

To justify court in overruling judgment of attorney in quo warranto proceedings, but case should be exceptional, and one in which it clearly appears that public interests require it, and must be disposed of by demurrer. State v. City of Chisholm, 199 M 403, 273 NW 236. See Dun. Dig. 2758.

Improper motions made to hearing and submission of motion. Id. See Dun. Dig. 2755.

Improper motion made to hearing and submission of motion. State v. City of Chisholm, 199 M 403, 273 NW 236. See Dun. Dig. 2758.


Summons is not process and need not run in name of state. Schultz v. O., 203 M 337, 277 NW 218. See Dun. Dig. 2758.

158. Judge may act in another district.

Authority to "any judge of any judicial district" when "the convenience or interest of the public or the interest of any litigant shall require" substitution, has for its basis a determination of facts, and such duty is judicial or at least quasi judicial. State v. Montague, 195 M 278, 262 NW 684. See Dun. Dig. 2758.

Where county attorney more than 15 days before regular term obtained order from judge of district court that there was a tie vote and that a vacancy existed and that refusal of Attorney General to institute or consent to proceedings, but case should be exceptional, and one in which it clearly appears that public interests require it, and must be disposed of by demurrer. State v. City of Chisholm, 199 M 403, 273 NW 236. See Dun. Dig. 2758.

159. Writs.

The general terms of district court in the several counties constituting the Third Judicial District of the State of Minnesota shall be held each year at the third Monday in May, and at such further times as may be appointed by the court. State v. City of Chisholm, 199 M 403, 273 NW 236. See Dun. Dig. 2758.

Thirteenth Judicial District.

District court is to be open at all times.

District court is held, within meaning of Gen. Stats. 1913, § 238, as amended by Laws 1919, c. 229, where judge is acting for the determination of questions of fact or of law, and there is no distinction between general and special term days. Op. Atty. Gen. Jan. 25, 1925.

In so far as Mason's Minn. St. 1927, § 1185 or 218, as amended, empowers Governor to call a special grand jury to serve in any other district to discharge duties of a district judge, it is in contradiction of Art. 1 of article 3 and beyond authority of Gen. Stats. 6 of 1927. State v. Day, 200 M 157, 262 NW 684. See Dun. Dig. 2758.


161. District courts to be open at all times.

District court is held, within meaning of Gen. Stats. 1913, § 238, as amended by Laws 1919, c. 229, where judge is acting for the determination of questions of fact or of law, and there is no distinction between general and special term days. Op. Atty. Gen. Dec. 24, 1951.


Where county attorney more than 15 days before regular term obtained order from judge of district court for grand jury, but did not file order with clerk of court until less than 15 days before term, no grand jury could validly be held for such term. Op. Atty. Gen. (1948-49), Sept. 30, 1937.

TERMS OF COURT

162. Terms for holding general terms. Third Judicial District

The general terms of district court in the several counties constituting the Third Judicial District of the State of Minnesota shall be held each year at the time prescribed by law.

Huntington County on the third Monday in May and the fourth Monday in October;
Olmsted County on the third Monday in January, April and September;
Wabasha County on the third Monday in May and the second Monday in November;
Winona County on the second Monday in January and the third Monday in April and September;
Prospective, however, that when any general term in any of said counties shall be adjourned for a period of more than thirty days, and issues of fact in any action are joined more than eight 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 days or more before the beginning of said adjourned term; such notice of trial shall be filed with the clerk at least six days before the beginning of such adjourned term and shall serve as a note of issue. ('17, c. 2, §1; '21, c. 103, §1; '23, c. 14, §§1, 2; '25, c. 84, §§1, 2; Mar. 20, 1935, c. 62, §1).

Fifth Judicial District
The general terms of the district court in the several counties constituting the Fifth Judicial District of the State of Minnesota shall be held at the times herein prescribed, as follows:
In the County, the first Monday in April and the third Monday in September.
In Rice County, the first Monday in May and the second 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 any of said counties 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 days or more before the beginning of said adjourned term. (R. L. '05, §97; '09, c. 244, §1; '13, c. 326, §1; '25, c. 99, §1; Feb. 9, 1933, c. 15, §1.)
Sec. 2 of Act Feb. 5, 1933, cited, repeals inconsistent acts and §3 provides that the act shall take effect from its passage.

Sixth Judicial District
The general terms of the District Court to be held in the several counties constituting the Sixth Judicial District of the State of Minnesota shall be held at the times herein prescribed, as follows:
Blue Earth County: On the first Tuesday in February, the second Tuesday in May and the second Wednesday in October.
Watonwan County: On the second Tuesday in April and the second Tuesday in September.
Laws 1937, Chapter 5, is hereby repealed.
This act shall take effect and be in force from and after September 1, 1937. (Jan. 30, 1937, c. 5, §§1, 2; Apr. 8, 1937, c. 184, §§1-3.)

Seventh Judicial District
The general terms of the District Court in the several counties constituting the Seventh Judicial District of the State of Minnesota shall be held at the times herein prescribed, as follows:
Becker County, on the first Monday in March, and the second Monday in September.
Benton County, on the first Monday in March, and the second Monday in September.
Clay County, on the second Monday in April, and the second Monday in November.
Douglas County, on the first Monday in March, and the second Monday in September.
Morrison County, on the second Monday in May, and the first Monday in December.

In Otter Tail County, on the second Monday in April, and the second Monday in November.
In Stearns County, on the second Monday in April, and the second Monday in November.
In Todd County, on the third Monday in March, and the second Monday in November.
In Wadena County, on the first Monday in March, and the second Monday in September. (R. L. '05, §97; '09, c. 244, §1; '15, c. 9, §1; '17, c. 90, §1; '25, c. 9, §1; April 6, 1931, c. 117, §1; Feb. 15, 1933, c. 28, §1; Mar. 23, 1933, c. 108, §1; Mar. 15, 1936, c. 46, §1.

In Mille Lacs County, on the third Monday in September.
In Freeborn County, on the fourth Monday in March and the fourth Monday in September.
In Sibley County, on the first Monday in June and the first Monday in December. (Mar. 31, 1937, c. 127, §1.)
Sec. 2 of Act Mar. 31, 1937, repeals inconsistent acts, and §3 provides that the act shall take effect July 1, 1937.

Ninth Judicial District
The general terms of the district court in the several counties constituting the Ninth Judicial District of the State of Minnesota shall be held at the time herein prescribed, as follows:
Brown County: On the third Monday in May and the fourth Monday in November.
Lincoln County: On the fourth Monday in March and the fourth Monday in September.
Lyman County: On the fourth Monday in April and the third Monday in November.
Nicollet County: On the first Tuesday in May and the second Tuesday in October.
Redwood County: On the second Monday in April and the fourth Monday in October.

Tenth Judicial District
That the General Terms of the District Court shall be held each year in the several counties constituting the Tenth Judicial District of the State of Minnesota shall be held commencing on the days hereinafter set forth, as follows, to-wit:
In Carver County on the first Monday in March and on the second Monday in October.
In Le Sueur County on the third Monday in April and 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 fourth Monday in March and the fourth Monday in October.
In Sibley County on the first Monday in June and the first Monday in December. (Mar. 31, 1937, c. 127, §1.)
Sec. 2 of Act Mar. 31, 1937, repeals inconsistent acts, and §3 provides that the act shall take effect July 1, 1937.
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 same times 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 March; third 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: First Monday in April; third Monday in September;

Lac qui Parle County: First Monday in May; second Monday in October.

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

Pennington County: On the fourth Monday in February and the first Monday in October;

Mahnomen County: On the third Monday in May, and the fourth Monday in October.

Marshall County: On the first Monday in May, and the fourth Monday in November.

Norman County: On the fourth Monday in April, and the third Monday in October.

Pembina County: On the third Monday in May, and the third Monday in November.

Red Lake County: On the second Monday in March, and the second Monday in October. (R. L. '05, §97; '09, c. 244, §1; '15, c. 43, §1; '17, c. 57, §1; '21, c. 135, §1; '25, c. 8, §1; '25, c. 34, §1; '27, c. 67, §1; Jan. 17, 1929, c. 2; Apr. 21, 1931, c. 285, §1; Mar. 3, 1933, c. 51, §1; Apr. 24, 1937, c. 448, §1.)

Section 2 of Act Mar. 3, 1933, repeals inconsistent acts. Sec. 3 provides that the act shall take effect from and after Apr. 1, 1933.

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 second Tuesday in April and the first Tuesday in November.

Crow Wing County, on the first Tuesday in March and the first Tuesday in October.

Clearwater County, on the third Tuesday in April and the first Tuesday in November.

Cass County, on the first Tuesday in March and the first Tuesday in November.

Beltrami County, on the third Tuesday in February and the second Tuesday in September.

Koochiching County, on the second Tuesday in May and the first Tuesday in December.

Lake of the Woods County, on the third Tuesday in April and the first Tuesday in November.

In years when the first Tuesday in November is general election day the November terms shall be held on the first Wednesday of that month.

All Acts and parts of Acts inconsistent herewith are hereby repealed.

This Act shall take effect and be in force from and after July 1, 1937. (R. L. '05, §97; '09, c. 244, §1; '21, c. 143, §1; '23, c. 222, §§25, c. 344, §27, c. 197, §1; Dec. 23, 1933, Ex. Sess. c. 15; Apr. 17, 1937, c. 261, §§1-4.)

Seventeenth Judicial District

The general terms of the district court, to be held each year in the several counties constituting the Seventeenth Judicial District of the State of Minnesota shall be held commencing on the day herein-after described, as follows:

In Jackson County on the second Monday in February and the second Monday in October.

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

In Polk County, on the second Monday in April and the second Monday in November. (R. L. '05, §97; '09, c. 244, §1; '21, c. 174, §1; Feb. 13, 1929, c. 16, §1.)

Sec. 2 of Act Feb. 13, 1929, c. 16, repeals Laws 1921, c. 174, and all inconsistent acts. Sec. 3 provides that the act shall be in force on and after June 1, 1929.

Nineteenth Judicial District

The general terms of the District Court to be held each year in the several counties constituting the Nineteenth Judicial District of the State of Minnesota shall be held at the times herein preserved as follows:

Anoka County, third Monday in March; fourth Monday in September.

Wright County, first Monday in May and third Monday in November.

Sherburne County, fourth Monday in February and fourth Monday in October.

The general terms of the District Court shall be held in the County of Inanti in each year at the times herein prescribed as follows: the general terms on the second Monday in February and the second Monday in September. (Apr. 17, 1937, c. 267, §1; June 14, 1937, Sp. Sess. c. 18, §1.)
Nineteenth Judicial District as follows:

In the County of Chisago on the fourth Tuesday in April and on the first Monday in October of each year.

In the County of Pine on the first Monday in April and on the fourth Tuesday in October of each year.

All acts and parts of acts inconsistent with this act are hereby repealed.

This act shall take effect and be in force from and after July 1, 1923. ('19, c. 70; '23, c. 56, §1.)

The general terms of the District Court shall be held in the County of Kanabec in each year at the time hereby 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 Monday 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 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. 5, §5; '26, c. 946, §2; Mar. 2, 1937, c. 49.)

105. Nineteenth Judicial District—Special terms 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, the hearing of motions and applications, and all matters except the trial of issues of fact by a jury. That during the months of June—July, August, and September such special terms shall be held only on the fourth Monday of each said month. ('09, c. 21, §1 (162); Mar. 2, 1937, c. 50, §1.)

104. Eleventh Judicial District—St. Louis County.

In addition to the general terms of the District Court in St. Louis County to be held at the County Seat, general terms of the Court are hereby established to be held in the city of Hibbing in that county on the first Tuesday in April, on the first Tuesday after the first Monday in September and on the fourth Tuesday in November; and in the village of Hibbing in that county on the second Tuesday in February, on the third Tuesday in May and on the third Tuesday in October in each year; and in the city of Ely in said county on the third Tuesday in March and on the second Tuesday in October in each year, for the trial, hearing and determination of all actions, civil and criminal, and 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 or determined in the District Court of this State, may be tried, heard and determined in the said city of Hibbing in the said city of Hibbing of the city of Hibbing or the city of Ely with the same force and effect as though heard and determined at the county seat of said county, except 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, and all other actions to determine title to real estate shall be tried at the county seat, except that by written consent of all the parties thereto any such action may be tried in the city of Virginia, at the Village of Hibbing or the city of Ely in accordance with such written consent; but no officer having in his custody any of the public records of St. Louis County shall be required to produce such record at the trial of any action not on trial at the county seat, save upon the order of the Court providing for the production of such record and its immediate return to the officer producing it, upon its introduction as evidence in such case. '171, c. 93, §1; '21, c. 302, §1; '25, c. 218; Mar. 30, 1929, c. 118; Mar. 2, 1937, c. 48, §2.)

Sec. 3 of Act Mar. 2, 1937, repeals inconsistent acts and §1 provides that the act shall take effect on passage.

Any person who goes to trial at Virginia in a case involving title to real estate without objection, cannot complain that there was no written consent to trial of a case involving title to real estate. '171, c. 93, §1.

106. 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. The office of said deputy sheriff at Virginia, Hibbing and Ely shall not in any sense be considered or deemed the office of the Clerk for any purpose except the performance of his duties relating solely to proceedings tried or to be tried at said places; but the office of deputy clerk shall be regarded as the office of the Clerk of Court of the County, at least twenty days before the dates herein fixed for holding said court. ('96, c. 125; '11, c. 93, §1; '15, c. 93, §1; '25, c. 218, §1; Apr. 15, 1931, c. 160, §1.)

Where contestant filed notice of contest in office of deputy sheriff at Hibbing within 105 days of the date of the petition failing to state in his notice of contest, "to be tried at the Village of Hibbing," but the clerk was required to produce the record of the action, the words "to be tried at the Village of Virginia," and any party wishing any such matter commenced or appealed by him in said court, tried in said City of Virginia, shall in the summons, Notice of Appeal in such matters, or other jurisdictional instrument 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 such matter commenced or appealed by him in said court tried in said City of Ely, shall in the summons, Notice of Appeal in such matters, or other jurisdictional instrument issued therein, in addition to the usual provisions, print, stamp or write thereon the words "to be tried at the Village of Ely," except in all cases where any summons, Notice of Appeal in such matters, or other jurisdictional instrument 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 this answer in addition to the other allegations of defense, shall set forth the地点 of 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 or
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 occupied by 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 made a demand 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 subdivisions 2, 3, or 4, shall be made by motion which shall be returnable and heard at the place of commencement of the term.

177. Absence of judge—who may act.
Where trial judge has become incapacitated and motion for new trial is heard by another judge, the latter has no power to amend findings of fact but he may amend the conclusions of law and may grant a new trial for the same causes which the trial judge may grant.

Motion for new trial must be heard before judge who tried action unless he is out of office or disabled. State v. Quale, 187M546, 245NW5986. See Dun. Dig. 7056, 3997, 3954.

178. Adjourned and special terms.
Sections 161 and 178 are not inconsistent but merely provide two different methods of calling special grand jury. (1946-51.)

Where county attorney more than 15 days before regular term obtained order from judge of district court commanding grand jury to meet, order is void unless clerk of court shall be present. Stearns C. C. No. 1, 202M583, 276NW597. See Dun. Dig. 496.

182. Rules of practice.
District court rule permitting objections to language of closing arguments to be seasonably taken at close of closing arguments to be seasonably taken at close of proclamation of closing arguments shall prevail. Lu districts composed of not less than five judges of such district to preside at the term so fixed in the office of the clerk of the court in that county. 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. In districts composed of not less than seven counties, the senior judge, at least 30 days before the time appointed for the holding of a general term of the court in that county, by order of the court in that county, shall designate and assign one or more of the judges of such district to preside at the term so appointed, and the clerk forthwith shall mail a copy of such order to each judge of the district. If any judge assigned to hold a term of court as herein provided is incapacitated by illness or otherwise to hold a term of court at such time that such judge shall be designated and assigned in like manner to take his place. The same judge shall not be designated or assigned to hold two consecutive general terms in the same county. (R. L. '05, §105; G. S. '13, §165; Mar. 9, 1913, c. 51.)

Where presiding judge has made an order designating a qualified judge of his district to hold a term of court within a county of such district, governor may not designate an outside judge to preside in that county, but that regular and properly designated judge is competent to preside in that county. In such case there is no delay of trial, and such delay of trial is not probable. State v. Montague, 195M257, 255NW684. See Dun. Dig. 4951.

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, or 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, where the money is paid or deposited in any court by or for a city of the first class or the State of Minnesota, 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, §20; 1917, c. 178; Apr. 12, 1937, c. 158, §1.)

Sec. 2 of Act Apr. 12, 1937, provides that the act shall take effect from its passage.


193. Deputies.

193-4. Deputy clerks in certain counties.—In all counties in the state, now or hereafter having a population of more than 150,000 and wherein regular terms of the District Court are held in three or more places, the Clerk of the District Court therein by an agreement in writing with the county and with the approval of the District Judge of the Judicial District in which said county is situated, or if there be more than one such District Judge with the approval of a majority thereof, may appoint deputies for whose acts he shall be responsible, such deputies to hold office as such until they shall be removed therefrom, which removal shall not be made except with the approval of the said District Judge or Judges. The appointment of such deputy shall be filed with the Register of Deeds. (Act Apr. 15, 1926, c. 170.)
1925. Salary of Clerk of the District Court and deputies in certain counties.—The salary of the clerk of the district court of each county in this state having not more than 20 congressional townships and assessed valuation not less than $2,000,000 and not more than $3,000,000 shall be $2,000 per annum. Chief deputy shall be paid the sum of $1,500.00 per annum; one deputy clerk who shall be paid the sum of $2,150.00 per annum. Deputy clerks who shall be paid the sum of $1,550.00 per annum; one deputy clerk who shall be paid the sum of $1,250.00 per annum. In addition to the stock fees allowed clerks for completing records, instead of the index provided by the above section, the court shall fix the salaries of subordinate county employees. See §§997-4a to 997-4h.

197. Return in criminal cases to county attorney. A clerk of the district court shall receive $990 per annum and clerk hire to be paid into the county treasury. See §§997-4a to 997-4h.


In counties with population of 300,000 or over, the clerk of the district court shall receive $1,268 per year, and fees, with credits for real estate taxes, of $9,000,000 to $12,000,000, the clerk of the district court shall receive $990 per annum and clerk hire to be paid into the county treasury. See §§997-4a to 997-4h.
of not more than $6,000,000, Laws 1921, c. 16, §3, permits clerk to retain $1,500 out of fees, any deficiency to be paid by petition in which candidate need not state his

CH. 5—JUDICIAL DEPARTMENT


Where clerk of district court is paid under Laws 1919, c. 17, §6, he is not entitled to fees against county for acting in capacity of county auditor, in any suit in which county is a party, whether such suit be criminal or civil, and he is not entitled to fees against county for acting in any capacity in suits in which county is a party in suit. Op. Atty. Gen. (144b-19), Aug. 25, 1937.

Vacancy in office of clerk of district court is to be filled by district judge, unless by county board under §232. Op. Atty. Gen. (144a-5), Nov. 25, 1938.


Fees received by clerk of court for services rendered on record of audit, and for taking passport applications go to him personally in county governed by Laws 1919, c. 229, and county auditor in other than Cass County. Op. Atty. Gen. (144b-1), July 24, 1939.

Laws 1925, c. 5, §3.

This act as so far as it relates to salary and clerk hire of clerk of district court of Clearwater County is unconstitutional and void. Opinion of the Atty. Gen., June 1, 1937.

STENOGRAPHIC REPORTERS

201. Appointment—Duties—Bond.

Laws 1920, c. 285, amends Laws 1921, c. 460, §5, and fixes salary of court reporter in St. Louis county at $3,000 and $19 per year for each county court reporter in other counties. Laws 1939, c. 229, provides that in judicial districts comprising two or more counties, any county, upon presentation of a verified, itemized statement thereof apportioned as to the several counties, and each county shall be required to order by such rule and order to pay a specified amount thereof in monthly installments which amount shall be such proportion as 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 of Venice 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, Hemlized statement thereof approved by the judge of the court in which such county, upon presentation of such approved statement, shall issue his warrant in payment thereof. As amended Apr. 17, 1939, c. 259.

Editorial note.—Act Mar. 17, 1933, c. 57, authorizes judges in all judicial districts other than those comprised of nine counties, area of 15,000 square miles, and not containing a city of the first class, to fix salary of court reporters at $7,500 per annum.
Court reporter is entitled to charge 5¢ per mile for use of automobile, but not for week-end trips home. Op. Atty. Gen., May 2, 1922.


PROBATION AND INVESTIGATION DEPARTMENT

208-1. Probation and investigation department established. There is hereby established in all counties of this state now or hereafter having a population of more than 415,000 inhabitants and constituting a single judicial district a probation and investigation department in connection with the district court of any such county. (Act Apr. 24, 1929, c. 326, §1.)

208-2. Officers and employees. Such department shall consist of one chief probation officer and such other probation officers, investigators, clerical help and other employees as the judges of said court shall from time to time appoint. Such probation officers, investigators, clerical help and other employees shall be appointed and removed by the judges of the district court in any such county. They may be appointed either for a definite period of time or for an indeterminate period in the discretion of the court. The salaries of such persons shall be fixed by the judges of said court.

The said judges may by order determine the necessary qualifications of applicants for positions in said department and may in their discretion provide that applicants shall undergo certain tests as to their qualifications.

The chief probation officer shall have general supervision of such department, subject to the direction of the judges of said court. The court may divide the duties of said department into branches or divisions, and appoint from such probation officers or investigators the heads of such branches or divisions. A juvenile division may be established distinct from all other divisions of such department. (Act Apr. 24, 1929, c. 326, §2; Apr. 10, 1939, c. 183.)

208-3. Duties. The duties of such department shall be:

(a) To undertake the supervision of all persons placed on probation or parole by any of the judges of said court, to keep accurate records of such persons, and to report to the court as to such probation or parole as directed by any of the judges of the court.

(b) To be present when court is in session so directed by any one of said judges.

(c) To perform the duties required of probation officers by the juvenile court act, as contained in Chapter 73A, Mason’s Minnesota Statutes 1927.

(d) To assist in administering the law providing for all allowances to mothers of dependent children, and to perform the duties of investigation and supervision, as found in Sections 8571, to 8583, Mason’s Minnesota Statutes 1927.

(e) To provide for mental and physical examination of persons coming under the juvenile court law, and to provide for necessary mental, dental, surgical and nursing care for such persons.

(f) To make such investigation as the court may direct concerning the circumstances of the offense, criminal record and social history of any person convicted of crime, and when deemed appropriate to obtain a physical and mental examination of such defendant and report thereon.

(g) To make collections of support money in divorce actions when ordered by a judge of said court for the benefit of children or indigent mothers and children jointly; to collect money ordered to be paid in desertion and abandonment cases; and to make collections of money or property when ordered to be paid as restitution or reimbursement and to turn over such money or property to the person or persons entitled thereto.

(h) To make investigations in divorce cases of children and home conditions when directed by a judge of said court, and also to exercise supervision over children in such divorce cases as the court may direct.

(i) When directed by a judge of said court and when the person having custody of children is indigent, to take such steps as may be necessary to compel persons ordered to pay money for the support of children when in default; to take such steps as may be necessary to compel persons to make reimbursement to comply with the order of court when in default; to institute, if necessary, contempt proceedings in behalf of such person or persons to whom money or property is ordered to be paid or delivered. It shall be the duty of the county attorney to conduct such contempt proceedings when directed by one of the judges of said court.

(j) To perform such other duties for the protection of children and indigent mothers and children as may be directed by the court. (Act Apr. 24, 1929, c. 326, §4.)

208-5. Probation officers. Powers. Probation officers shall have the power of peace officers in the execution of their duties. Each probation officer, before entering on the duties of his office shall take an oath of office to be administered by one of the judges making the appointment. Each probation officer or employee who collects or has the custody of money shall execute a bond with appropriate sureties in a penal sum to be fixed by said judges, at the expense of the county, conditioned for the true accounting of all money received by him as probation officer. (Act Apr. 24, 1929, c. 326, §5.)

208-6. Records to be in custody of the court. The records of all cases in said office may be withheld from indiscriminate public inspection at the discretion of the judges of said court. (Act Apr. 24, 1929, c. 326, §6.)

208-7. Action by majority of judges. Any act, order, or thing required to be done by the judges of said court by the provisions hereof may be done by a majority of said judges. (Act Apr. 24, 1929, c. 326, §7.)

208-8. Census governing. For the purpose of determining what counties in the state come under the classification contained in this act reference shall be made to the last complete state or national census. (Act Apr. 24, 1929, c. 326, §8.)

208-9. Repeal; municipal court. All acts or parts of act inconsistent herewith are hereby repealed, in so far as they apply to counties affected by this act. In counties in which there is a separate municipal court probation officer, the probation department established by this act is hereby relieved of any of the duties specified in Sections 10910, 10911 and 10912, Mason’s Statutes of Minnesota 1927, with references to attendance in municipal courts and with references to representing the interests of minors in said courts. (Act Apr. 24, 1929, c. 326, §9.)

SALARIES

211. Retirement of Supreme Court Justices and District Court Judges. When a Justice of the Supreme Court or a Judge of the District Court shall
be retired under the provision of Mason's Minnesota Statutes of 1927, Section 210, he shall receive the compensation allotted to his office for the remainder of his said term, or, if a Justice of the Supreme Court is then past 70 years of age, and has served as a Justice of the Supreme Court, or as such Justice and as a Judge of the District Court of this State, or as Judge of the District Court, or as a Judge of the Municipal Court or a Probate Court of this State, or, if he serves continuously for 25 years or more, 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.

Whenever a probate judge shall become incapacitated at the rate and for the time provided in the statutes prior to January 1, 1937, under the statutes in force as a Commissioner of the Supreme Court or a Judge was elected, which retirement shall create a vacancy in said office, which shall be filled by appointment, as provided by law. (Act Apr. 20, 1931, c. 255, §1.)

211-9. To receive half pay.—When a judge shall be retired under the provisions of Section 1 of this act, he shall receive the compensation allotted to his office for the remainder of his term, or, if then past 70 years of age, having served as such probate judge continually for more than forty 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. (Act Apr. 20, 1931, c. 253, §2.)

MUNICIPAL COURTS

212. Existing courts confirmed.

This section supersedes any inconsistent home rule court created by any person. (Gen. Jan. 28, 1934.)

213. Oaths and bonds.


Oath of office and bonds of a judge of municipal court of Brainerd is to be filed with secretary of state upon approval by attorney general. Op. Atty. Gen. (60a-4), April 19, 1937.


211-7. Same—compensation of retired judge.

The act is omitted as special and temporary. (Minn Law Rev 376.)

211-7a. Same—Retirement prior to January 1, 1937.—Justices and Commissioners of the Supreme Court and Judges of the District Court who retired prior to January 1, 1937, under the statutes in force at the time each of them retired. (July 23, 1937, Sp. Sess. c. 83.)

211-8. Retirement of judges of probate court.—Whenever a probate judge shall become incapacitated physically or mentally by his judicial duties, he may resign his office, and such resignation 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 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 remainder of his term of office, and such judge was elected, which retirement shall create a vacancy in said office, which shall be filled by appointment, as provided by law. (Act Apr. 20, 1931, c. 255, §1.)


Sec. 2 of Act Apr. 18, 1929, c. 222, repeals inconsistent acts.

Municipal 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 90 days prior to a regular election, the Governor may fill the vacancy, and provide that such judges shall serve until the regular election shall next be held. 


A resolution of city council adopted in May, 1933, enacted with the same formalities as an ordinance, fixing salary of municipal judge, had same force as an ordinance, was not temporary enactment, and did not expire with expiration of term of office of members of city council then in office. 105 N. W. 2d 913. 


Sec. 232, c. 223, municipal judge of Buhl may act as secretary or treasurer of the school board and be paid a salary for such service. Op. Atty. Gen., July 30, 1930.


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Where regular Judge is disqualified or is absent from city or ill, a practicing attorney may be appointed by the mayor or president of council to act in place of the regular judge from day to day. Op. Atty. Gen. (307j), July 7, 1937.


Salary of municipal judge appointed to fill vacancy can neither be increased or diminished during term for which deceased judge was elected. Id.


Clerks of cities of at least four classes have power to compel and receive judgment of municipal judge of city, by salary, or by fees or by both, and as their legislative discretion might fix it. Op. Atty. Gen. (307l), May 11, 1938.


Defendant was entitled to have his attorney present to advise in connection with civil action. Op. Atty. Gen. (307o), Feb. 1, 1938.

City council may provide that all fees which judge is by law authorized to collect shall be paid into city treasury. Op. Atty. Gen. (307p), Jan. 13, 1938.

Council may provide that all fees which judge is by law authorized to collect shall be paid into city treasury. Op. Atty. Gen. (307q), Jan. 13, 1938.

Compensation of judge of court operating under rule of court. Id. 1935, c. 362, § 13, p. 1935.


Municipal judge or director of independent police force need not be attorneys. Id.

Municipal court of Minneapolis had jurisdiction of an action In forcible entry and unlawful detainer cases, municipal court, nor shall they institute, for another, pleadings or other papers in any civil actions in said court. Id. 1935, c. 362, § 13, p. 1935.

Jurisdiction of justice of the peace in criminal cases in city of Northfield is limited to cases arising within city but not within city, municipal court having concurrent jurisdiction of misdemeanors and to conducts preliminary examination of persons charged with violation of a city ordinance. Op. Atty. Gen., July 30, 1935.


Municipal judge need not be attorneys. Id.


Every clerk of municipal court, upon the taking of their oath, shall receive the sum of $1,000.00 to be approved by the appointing Judge, conditioned for the faithful discharge of the duties of such office. Op. Atty. Gen. (307k), May 11, 1938.

Senior in office shall exercise such power. Every clerk of municipal court, upon the taking of their oath, shall receive the sum of $1,000.00 to be approved by the appointing Judge, conditioned for the faithful discharge of the duties of such office. Op. Atty. Gen. (307l), May 11, 1938.

If there be two judges, the senior in office shall exercise such power. Every clerk of municipal court, upon the taking of their oath, shall receive the sum of $1,000.00 to be approved by the appointing Judge, conditioned for the faithful discharge of the duties of such office. Op. Atty. Gen. (307m), May 11, 1938.


Judge may not recover expenses advanced to defray cost of trial. Id. 1935, c. 362, § 13, p. 1935.

Municipal judge or director of independent police force need not be attorneys. Id.


Salary of judge of court operating under rule of court. Id. 1935, c. 362, § 13, p. 1935.

Compensation of judge of court operating under rule of court. Id. 1935, c. 362, § 13, p. 1935.

Judge may not recover expenses advanced to defray cost of trial. Id. 1935, c. 362, § 13, p. 1935.


Appointment of municipal court clerk need not be approved by village council. Id.


Fines traceable to prosecutions by highway patrolman may be remitted by judge to municipal treasurer and by county or work done for it. Op. Atty. Gen. (307e), Aug. 28, 1935.

A municipal court organized under the general law has no jurisdiction of gross misdemeanors punishable by a fine in excess of $100, or by imprisonment in excess of six months. State v. Municipal Court of Winona, 265NW252. See Dun. Dig. 396b.


Appointment of municipal court clerk need not be approved by village council. Id.


Civil actions in which such death occurred. (Act Apr. 13, 1939, c. 221, § 217-1.)
226. Court officers.

Not applicable to municipal court of St. Cloud. See Laws 1929, c. 38, § 8.


A municipal court officer is not a policeman and so is not under civil service, and in cities of over 5,000 population the power to appoint such officer without approval of city council, city council's only power in premises being to reject as legally insufficient or to approve or disapprove by such officer. State v. City of Eveleth, 1914 M 240, 265 N.W. 223. See Dun. Dig. 909a.

Clerk of court is subject to soldiers' and sailors' preference law. Id. See Dun. Dig. 911b.

227. Reporters—Fees, etc.


228. Powers and duties—Practice Rules—Fees

City council in proceedings for violation of a city ordinance is largely a matter within discretion of court, and granting a continuance of only one day was not error as defendant was more than a week to prepare for trial and to find alleged witnesses. State v. Duluth v. L., 1929 M 470, 272 N.W. 389. See Dun. Dig. 1715.

Municipal court had jurisdiction to make findings upon transcript of evidence adduced at a former trial and then to enter judgment and remand for execution of sentence, if it was the issue of judge who declared the evidence insufficient to sustain the charge upon which defendant was convicted. State v. Evans, 1926 M 471, 262 N.W. 311. See Dun. Dig. 406.1.

Whether or not district court practice applies to municipal courts is not settled by case authority. See Dun. Dig. 49C2. Municipal court had not jurisdiction to impress a witness to appear and give evidence. State v. Laughlin, 1924 M 251, 253 N.W. 356. See Dun. Dig. 495b.

Right of defendant to appeal after plea of guilty in municipal court. Op. Atty. Gen. Dec. 9, 1930. This section does not apply to constables, marshals and village officers in cities and villages of less than 5,000 population, but rather to court officers appointed in cities and villages of 5,000 population or more under 1931, c. 66, § 11, and may not be applied to courts of ajudice against judge, judicial propriety dictating that upon filing of such an affidavit or without it, in case of a criminal contempt, another judge should be called in to try case. State v. Laughlin, 1924 M 251, 253 N.W. 356. See Dun. Dig. 495b.

229. Costs and disbursements.

Where defendant prevailed on his counter claim in amounts equal to plaintiff's claim was entitled to costs. 179 M 461, 229 N.W. 779 (2d). Disbursements to defendants where no statutory costs are involved. Id.

230. Notices, etc.—Unlawful detainer.

In forcible entry and unlawful detainer cases, municipal court of Minneapolis has no power to entertain a motion to vacate judgment for violation of a city ordinance. Op. Atty. Gen. (266M-13), Feb. 5, 1935.

One prosecuted for violation of a village ordinance is not entitled to a jury trial and city is not liable for Jury fees. Id. July 14, 1934.

One charged with an offense under municipal ordinance is not entitled to a jury trial, unless it is expressly provided in such ordinance, or by statute, or by defendant's own showing. Id. July 14, 1934.

Neither village nor city attorneys are under any obligation to prosecute violations of state laws within the city limits in justice court, and to not prosecute in such case he is not entitled to compensation for this reason. Id. July 14, 1934.

County attorney need not prosecute violations of state laws in justice court. Id. July 14, 1934.


Neither county nor city attorneys are under any obligation to prosecute violations of ordinances or appeals as well as original proceedings in municipal court. Op. Atty. Gen. (361b-6), Apr. 6, 1934; note under 229.

County attorney need not prosecute violations of city laws, nor order or district court need appeal, and city attorney is to try appeals as well as original proceedings in municipal court. Op. Atty. Gen., Sept. 26, 1932.


In prosecution for violation of city ordinance, defendant is entitled to trial in municipal court, or by district court on appeal, and city attorney is to try appeals as well as original proceedings in municipal court. Id. July 17, 1929.

County attorney need not prosecute violations of city laws, nor order or district court need appeal, and city attorney is to try appeals as well as original proceedings in municipal court. Id. July 17, 1929.

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Courts of appeals as well as original proceedings in municipal or district court on appeal, and city attorney is to try defendant is not entitled to a jury trial either in municipal court or in the same manner as in Justice court. Where city charter is silent on appeals from conviction of violation of city ordinances, appeals may be taken under §1120. Op. Atty. Gen. (6th), June 11, 1937.

237. Courts in cities of third and fourth class, etc. Whenever the common council of any city of the third or fourth class, where any municipal court has been or hereafter shall be established, 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 fixed and approved the same fees as is provided for in Laws 1895, Chapter 229, Section 32, and shall, in addition to his duties as such judge perform the duties incumbent on the clerk of such municipal court. If a resolution adopted by the common council or governing body and approved by the mayor, be compensated in the same manner as in Justice court.

The common council in cities of the fourth class, having a population of less than 5,000 inhabitants, whose by-laws have been or shall be adopted and approved by its common council or governing body and approved by the mayor, organize such a court under and by virtue of and with such jurisdiction and powers as are conferred by Laws 1895, Chapter 229 and amendments thereto, and the judge of any court so organized shall, in addition to his duties as such judge perform the duties 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 third or fourth class, the powers now not abridged or tempered are of special and limited jurisdiction and powers of a Justice of the peace, and all proceedings, order and actions therein, and provide for the collection of fees and the payment thereof into the city treasury and be responsible for such collection.

When fees shall be taxed they shall be paid as in ordinary cases in courts of justices of the peace and shall be the same in amount as are provided in Laws 1855, Chapter 229, as hereinafter stated. (’09, c. 10, §11; G. S. ’13, §281; Apr. 5, 1935, c. 114.)

The courts of municipal courts of Duluth, Minneapolis, and St. Paul are set out in Appendix 4, post. Statutes governing municipal courts in cities of fourth class, as they stood in 1934, did not authorize city councils to discontinue salary of municipal judge of city or to place compensation of judge back on a fee basis. State v. City of Waseca 195M265, 225NW633. See Duni. Dig. 486454.

There being here a valid resolution in force fixing salary of municipal judge, attempts to discontinue such salary was not effective and did not operate as a failure to fix salary, which was already fixed.

Where terms of office of municipal judge and members of city council are fixed, the resolution of city council is adopted on evening of that day after commencement of term of office of municipal judge, the term of office of judge for his term of office already commenced.

A resolution of city council adopted in May, 1933, enacted with the same formality as an ordinance, fixing salary of municipal judge, had same force as an ordinance, was not a temporary enactment, and did not expire with expiration of term of office of member of city council whose office.


If there is no special act of the legislature requiring justice, a particular city may abolish the office on drafting a home rule charter. Op. Atty. Gen., Oct. 9, 1931.


Councils of cities of at least fourth class have power to provide for compensation of municipal judges either by salary, or by fees as in other cases, and discretion might fix it. Op. Atty. Gen. (3071), May 13, 1938.


Council may provide that all fees which Judge is law authorized to collect shall be paid into city treasury. Op. Atty. Gen. (3071), Feb. 1, 1938.


City council has power to provide that there be no collection of fees in any record. Op. Atty. Gen. (1901), Dec. 31, 1935.

Duties of judge of municipal court in peace in criminal cases in city of Northfield is limited to cases arising within county but not within city, municipal court having concurrent jurisdiction over all cases which have been reduced to civil actions therein, and provide for the collection of fees and the payment thereof into the city treasury, 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 herein be liable 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 in the city treasury and be responsible for such collection.

Municipal courts organized under Laws 1895, ch. 229, operate as a Mini. St. Paul, St. clouds, Waseca, Mpls., St. Paul. Where record, are of special and limited jurisdiction and possess only such authority as is conferred by the particular

§236

CH. 5—JUDICIAL DEPARTMENT
serve four years, unless sooner removed by said Court. Municipal judge of each said court is entitled to receive, in addition to salary fixed by council in 1938, $2,420 per annum for each year of a probation officer, $2,400 per annum; and each deputy judge shall receive $2,200 per annum; such salary may be increased by the council of the city. Each of such judges may appoint an assistant probation officer and any such additional deputy judges as may be authorized by the council. Judges for cause. (13, c. 424, § 1) [283:] Apr. 17, 1937, c. 273, § 2.

242. Same—Powers and duties.—Such probation officer, or assistant probation officer or a 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:] Apr. 17, 1937, c. 273, § 3.

243. Same—Offices, etc.—The city council of any such city shall provide such probation officers and his assistant and deputes 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:] Apr. 17, 1937, c. 273, § 4.

245. Salary of probation officer and assistants.—Such probation officer shall receive as full compensation for his services $2,970 per annum; the assistant probation officer, $2,420 per annum; and each deputy such amount as shall be fixed by the judges of said court not exceeding $2,200 per annum; such salary shall be payable in equal monthly installments out of the city treasury. (13, c. 424, § 6.) [288:] Apr. 17, 1937, c. 273, § 4.

Sec. 2 of Act Apr. 17, 1937, cited, provides the act shall be severable and an invalidation of any part does not affect the remainder.

COURT COMMISSIONER

246. Election—Term of office. Laws 1929, c. 341, § 2 (3957-4), fixes salary at $3,500 and mortgage fees in all becoming due to in favor of an organized county from the date of organization. Act Apr. 17, 1937, c. 259, provides that in counties having over 400,000 population the salary of the court commissioner shall be $3,740.

Where court commissioner was elected in 1926 and office became vacant in 1929, and vacancy was not filled by appointment and in 1932 election thereon was voted for, person receiving most votes in 1932 was entitled to certificate of election. Op. Atty. Gen. (128e). May 14, 1937.


A court commissioner has power to waive five-day waiting period for marriage license, and express desire of judge of district court that court commissioners do not exercise such power is of no force and effect. Op. Atty. Gen. (128b). June 21, 1935.

Only power given to a court commissioner by Laws 1929, c. 246, amending 12150, is power to issue an attachment for rent, and he does not have authority to pass upon leasing of tax delinquent land. Op. Atty. Gen. (128b), Aug. 2, 1932.


Where court commissioner was elected in 1926 and office became vacant in 1929, and vacancy was not filled by appointment and in 1929 thereon was voted for, person receiving most votes in 1929 was entitled to certificate of election. Op. Atty. Gen. (128e). Apr. 17, 1937.

Village attorney is required to prosecute all violations of village ordinances before a justice of the peace, but is not obligated to prosecute violations of state laws or give aid, counsel and advice to justice of the peace. Id.

JUDICIAL COUNCIL

251-1. Judicial Council created.—A Judicial Council is hereby created for the continuous study of the organization, rules and methods of procedure and practice of the judicial system of the state, and of all matters connected with the administration of said system and its several departments. (Apr. 26, 1937, c. 467, §1.)

251-2. Membership in Judicial Council.—The Judicial Council shall consist of the Chief Justice of the Supreme Court, or some other Justice or former Justice, appointed from time to time by the Chief Justice for such service; two Judges or former Judges of the District Court, to be designated, or whom it shall have been designated by the Judges of the District Court in annual meeting assembled; one Judge or former Judge of Probate, similarly designated by the Judges of Probate; and seven other persons appointed by the Governor, one of whom shall be a Judge of a Municipal Court, and not less than four of the others shall be attorneys at law of wide practical experience. Of the seven members first appointed by the Governor, two shall be appointed for a period of one year, two for a period of two years, and three for a period of three years. All appointments made thereafter shall be for a term of three years and until their successors shall qualify, except that in the case of a vacancy, the appointment shall be made to fill the unexpired term. (Apr. 26, 1937, c. 467, §2.)

251-3. Shall report to Governor.—The Judicial Council shall report annually on or before December 1st, to the Governor, upon the work of the various branches of the judicial system. It may also from time to time submit, for the consideration of the several courts and judges, such suggestions in regard to rules of practice and in regard to procedure as it may deem advisable. (Apr. 26, 1937, c. 467, §3.)

251-4. Expenses of Judicial Council.—No member of the Judicial Council shall receive any compensation for his services, but the Judicial Council shall be allowed, out of any appropriations made for the purpose, expenses for clerical and other services, and such other salaries of the Judicial Council shall be allowed such expenses as the Governor shall approve. (Apr. 26, 1937, c. 467, §4.)

251-5. Appropriation.—There is hereby appropriated from any moneys in the State Treasury, not otherwise appropriated, the sum of $1,000.00 for each of the fiscal years ending June 30, 1938, and June 30, 1939, for the purpose of carrying out the provisions of this Act. (Apr. 26, 1937, c. 467, §5.)

251-6. Effective July 1, 1937.—This Act shall take effect on July 1, 1937. (Apr. 26, 1937, c. 467, §6.)

REVISOR OF STATUTES

251-11. Office created.—There is hereby created the office of Revisor of Statutes. (Act Apr. 22, 1939, c. 442, §1.)

251-12. Supreme Court to appoint—Salary.—The Supreme Court shall appoint to the office of Revisor of Statutes a person qualified to perform the duties hereinafter described, at an annual salary of $5,000, who shall hold his office at the pleasure of the Supreme Court. (Act Apr. 22, 1939, c. 442, §2.)

251-13. May employ assistants.—Subject to the approval of the Supreme Court the Revisor of Statutes shall employ such assistants, clerks and stenographers as may be necessary and shall procure necessary office furniture, stationery, books, postage and other supplies and shall be furnished with suitable office rooms convenient to the state library. Such assistants, clerks and stenographers shall be employed during the pleasure of the Revisor of Statutes. (Act Apr. 22, 1939, c. 442, §3.)

251-14. Duties.—It shall be the duty of the Revisor of Statutes:

(a) To formulate and prepare a definite plan for the order, classification, arrangement, printing and binding of the Minnesota Statutes and to prepare and at the beginning of each session of the legislature to present to the judiciary committees of the senate and house, in such bill or bills as he may deem best, such consolidation, revision and other matter relating to the statutes or any portion thereof as he shall deem proper or as he may be instructed by the Supreme Court.

(b) To renumber any chapter or section of the statutes for the purpose of revision, and to change and supply reference numbers to agree with any renumbered chapter or section in any compilation of the statutes hereafter made.

(c) As soon as may be after the close of each regular session of the legislature, to prepare and deliver to the commission of administration and finance printer's copy for a volume to be called "Minnesota Statutes," appending to that name the year of the last regular session of the legislature, which volume shall contain the constitution of the United States, the constitution, organic act, enabling act and act of admission of the state of Minnesota, all general statutes in force, a table of the statutes which have been revised by the Revisor of Statutes, an alphabetical index, a table showing the terms of offices, and such other useful information as the Revisor of Statutes shall determine to be desirable and practicable.

To one copy of such volume the Revisor of Statutes shall append his certificate to the effect that he has compared each printed section therein with the original section of the statutes, or, as the case may be, with the original section in the enrolled act from which the section was derived, together with all amendments, if any, and that all the sections therein appear to be correctly printed. Such copy shall be filed in the office of the Secretary of State as a public record and all other copies of such volume shall contain a printed copy of such certificate.

(d) To prepare and biennially to revise annotations of the constitution and the statutes of the state and to prepare and deliver to the commission of administration and finance printer's copy of these annotations, which shall also contain such other and useful matter as the Revisor of Statutes shall determine to be desirable and practicable. (Act Apr. 22, 1939, c. 442, §4.)

251-15. Commission of administration and finance to make publication.—Upon receipt of the printer's copy described in Section 4, paragraphs (c) and (d) herein, the commission of administration and finance shall enter into a contract for the publication of "Minnesota Statutes" and annotations. Said contract shall specify the price at which they shall be sold to the state, subdivisions of the state, and the public. (Act Apr. 22, 1939, c. 442, §5.)

251-16. Copies of laws to be delivered to revisor of statutes by Secretary of State.—Immediately upon the enrollment of any law or passage of any memorial or resolution three copies thereof shall be delivered to the Revisor of Statutes by the Secretary of State. (Act Apr. 22, 1939, c. 442, §6.)
CHAPTER 5A
Salaries of Certain State Officers and Employees

Act limiting amount which may be paid state officer or employee for use of automobile. Laws 1931, c. 331, $2744-17, 264-48.


2. Judicial Department.

Salary of chief justice, associate justices and commissioners.—The annual salary of the chief justice of the supreme court shall be $9,000.00 and that of each associate justice and each commissioner of the supreme court $8,500.00. (G. S. '13, §294; '13, c. 400, §1; Ex. Sess. '19, c. 30; '21, c. 504; '23, c. 377; '25, c. 268; Apr. 24, 1929, c. 322, §1.)

The above provision amends this subdivision with respect to the salaries of the chief justice, associate justices and the commissioners.


Salary of attorney general and assistants.—The annual salary of the attorney general is hereby fixed at $7,000.00 and of the deputy attorney general at $6,000.00, and of the several assistant attorneys general, other than the assistant attorney general who is a member of the rural credit bureau, at $5,000.00. (G. S. '13, §294; '13, c. 400, §1; '19, c. 504; '23, c. 377; '25, c. 268; Apr. 24, 1929, c. 322, §1.)

The above provision amends this subdivision "so as to read as above." As to whether it amends the provisions of the former law which are not embraced in the amendatory act may be open to question.

8. Office of State Librarian.

The salary of the assistant state librarian is hereby fixed at twenty-one hundred dollars annually, payable in semi-monthly installments. (G. S. '13, §294; '13, c. 400, §1; '19, c. 504; '23, c. 377; '25, c. 268; Apr. 24, 1929, c. 322, §1.)

Explanatory note—Laws Ex. Sess. 1915, c. 31, §1, impliedly amended Laws Ex. Sess. 1913, c. 30, by increasing the salary of the assistant librarian to the amount above stated.


Salary of commissioner of banks, forty-five hundred dollars; one deputy commissioner of banks, four thousand dollars; one bank examiner assigned to examination in cities of the first class, thirty-seven hundred fifty dollars; ten bank examiners thirty thousand dollars; eleven assistant examiners, twenty-seven thousand five hundred dollars; three second assistant examiners fifty-four hundred dollars; three examiners' clerks, forty-five hundred dollars; four examiners' clerks, at an amount not to exceed fifty-six hundred dollars; one chief clerk, twenty-four hundred dollars; one first assistant clerk, fifteen hundred dollars; seven stenographers and clerks, eighty-two hundred dollars; one extra clerk hire for contingencies, one thousand dollars. (As amended '21, c. 499; '23, c. 262; Apr. 15, 1933, c. 252, §1.)

Commissioner to fix salary of examiner in charge of liquidation.—The Commissioner of Banks shall fix the salary of the Examiner in Charge of Liquidation appointed by him, but not to exceed four thousand dollars, and the same shall be paid out of funds in the hands of the Commissioner of Banks for liquidation. (Act Apr. 15, 1933, c. 252, §2.)

19. Office of Board of Control.

Salary increases for certain employees.—That the salaries of all employees of the various institutions of the state under the jurisdiction of the Board of Control amounting to $20 to $50 a month exclusive of maintenance they may receive, be increased $5 to $10 per month, and the said State Board of Control is hereby authorized and directed to increase such salaries in said manner, using their own discretion as to the rate of increase in the individual case. (Act Apr. 15, 1935, c. 183, §1.)

Sec. 2 of Act Apr. 15, 1935, cited, provides that the act shall take effect from its passage. Sec. 2 of such act is set forth as §10534-1.

22. District Court Judges.

Governor attempted to veto this bill but did not return it in time. See State v. Holm. 172M1C2. 215NW200.

254. Fees.

Laws 1935, c. 391, §37, reducing salaries 10%, is changed by Act Apr. 24, 1937, c. 467, §37, which reinstates pre-existing salaries.

CHAPTER 5B
Public Officers and Employees in General

STATE EMPLOYEES’ RETIREMENT ASSOCIATION

254-1. Definitions.—The following words and phrases as used in this act, unless a different meaning is plainly required by the context, shall have the following meaning:

(a). "State Employee" shall mean any person holding a state office or regularly employed by the state in any capacity whatever and whose salary is paid, either by warrant of the state auditor or from the fees or income of any department or agency of the state, excepting elective state officers, court commissioners, district judges, the members of the Tax Appeal Board, the Civil Service Board, and the members of any other State Board or Commission who serve the state intermittently and are paid on a per diem basis, and the president, deans, professors, and instructors in the state university and in the state teachers' colleges, and teachers in state institutions who are eligible to membership in the Teachers' Retirement Fund but shall not include temporary employees or students who secure employment with the state or a state institution, incidental to and in furtherance of their education. Any employee who has been employed for a period of over six months continuously shall become a member, any classification of employees or students who secure employment with the state or a state institution, incidentally to and in furtherance of their education. Any employee who has been employed for a period of over six months continuously shall become a member, any classification of employees or students who secure employment with the state or a state institution, incidentally to and in furtherance of their education. Any employee who has been employed for a period of over six months continuously shall become a member, any classification of employees or students who secure employment with the state or a state institution, incidentally to and in furtherance of their education. Any employee who has been employed for a period of over six months continuously shall become a member, any classification of employees or students who secure employment with the state or a state institution, incidentally to and in furtherance of their education. Any employee who has been employed for a period of over six months continuously shall become a member, any classification of employees or students who secure employment with the state or a state institution, incidentally to and in furtherance of their education. Any employee who has been employed for a period of over six months continuously shall become a member, any classification of employees or students who secure employment with the state or a state institution, incidentally to and in furtherance of their education. Any employee who has been employed for a period of over six months continuously shall become a member, any classification of employees or students who secure employment with the state or a state institution, incidentally to and in furtherance of their education. Any employee who has been employed for a period of over six months continuously shall become a member, any classification of employees or students who secure employment with the state or a state institution, incidentally to and in furtherance of their education. Any employee who has been employed for a period of over six months continuously shall become a member, any classification of employees or students who secure employment with the state or a state institution, incidentally to and in furtherance of their education. Any employee who has been employed for a period of over six months continuously shall become a member, any classification of employees or students who secure employment with the state or a state institution, incidentally to and in furtherance of their education. Any employee who has been employed for a period of over six months continuously shall become a member, any classification of employees or students who secure employment with the state or a state institution, incidentally to and in furtherance of their education. Any employee who has been employed for a period of over six months continuously shall become a member, any classification of employees or students who secure employment with the state or a state institution, incidentally to and in furtherance of their education. Any employee who has been employed for a period of over six months continuously shall become a member, any classification of employees or students who secure employment with the state or a state institution, incidentally to and in furtherance of their education.