

CHAPTER 484

DISTRICT COURTS

484.01 JURISDICTION.

Deceased orally promised to devise all property owned by him to appellant in exchange for her promise to give him a home. Deceased died intestate. The probate court has no jurisdiction to grant specific performance of such a contract; the district court alone having jurisdiction to grant specific performance. *Umbreit v Carley*, 202 M 217, 227 NW 549.

The commissioner of patents is under the law the officer with whom in the first instance lies the power to decide upon the merits of an application for patent, and his decision in granting such is presumed to be correct. Appeal lies to the federal courts for appropriate relief. *Grob v Continental Machine Co.* 204 M 460, 283 NW 774.

Specific performance of a contract to make a will disposing of property may be granted in the district court by a judgment against the representative, heirs, legatees, and devisees without interfering with the probate court's jurisdiction of estates of decedents; and it is not necessary to show insolvency of defendants, or that there have been threats to convey the property. *Jannetta v Jannetta*, 205 M 266, 285 NW 619.

It is a familiar principle that once a court of competent jurisdiction acquires jurisdiction of the subject matter and parties to a cause its authority continues until the matter is finally disposed of. Hence no court of coordinate authority is at liberty to interfere with its action. *Shapiro v Larson*, 206 M 440, 289 NW 48.

Where the act complained of affects plaintiff solely in his capacity as a member, and is the act of the corporation, or through its agents, then such action is the management of the internal affairs of the corporation, and, in case of a foreign corporation, our courts although having jurisdiction of the parties and subject matter, will not as a general rule take jurisdiction, as a decision, if made, might be unenforceable. *Farmers Educ. Union v Farmers Union*, 207 M 80, 289 NW 884.

The district court, not the probate court, has jurisdiction of an action for damages for fraud in inducing a party not to file a claim against the estate of a deceased person; and the probate court's denial of a petition to reopen the estate does not constitute *res judicata* on issue of fraud between the parties because the probate court did not have jurisdiction to determine such issue. *Bulou v Bulou*, 208 M 529, 294 NW 845.

Under the provisions of 12 U.S.C.A. s. 1701, the national housing act, as amended, which provides that the administrator shall, in carrying out certain provisions of the act, "be authorized, in his official capacity, to sue and be sued in any court of competent jurisdiction, state or federal," the administrator, as such, is subject to suit for the tort of his agent committed in the course and scope of the agent's employment. *Zins v Justus*, 211 M 1, 299 NW 685.

A violation of the provisions of 29 U.S.C.A. ss. 207, 216(b), the fair labor standards act of 1938, authorizing an action for liquidated damages under 16(b), is made out by a showing that the employer has employed his employees for longer than the maximum hours without additional compensation for overtime. *Abroe v Lindsay Bros.* 211 M 136, 300 NW 457.

Since our district courts constitute one court of general jurisdiction coextensive with the counties of the state, the fact that a civil action is brought or tried in the wrong county is not jurisdictional. The place of trial is governed by statute. In a transitory action, the defendant being a non-resident, the case is triable in the county designated by plaintiff; and as to residents, transitory actions are triable

in the county where one or more of defendants reside when the action is begun, but if the action is begun elsewhere defendant may, upon seasonable demand for change of venue, secure such change as a matter of right. *Claseman v Feeney*, 211 M 267, 300 NW 818.

An appeal to a parent union's general executive board from an order of its general president appointing a trustee of a local union, absent expression of a contrary meaning, removes the matter to the general executive board for trial de novo. *Mixed Local Union v Hotel & Rest. Internat'l*, 212 M 587, 4 NW(2d) 771.

The district court by virtue of sections 261.08 and 261.09 has jurisdiction of the matter of the removability of a pauper freeholder in proceedings to determine disputes between political subdivisions of different counties. *Robinette v Price*, 214 M 522, 8 NW(2d) 800.

Once a court acquires jurisdiction in condemnation proceedings it retains the same until the proceedings are terminated by the filing of a final certificate as required by s. 117.20 (4). Jurisdiction is authority to determine a cause, and depends upon the right of the court to hear the matter in controversy and declare the law. A person whose lands are actually taken, although not described in the condemnation petition, has such an interest in the proceedings that he will either win or lose by the direct legal effect of the judgment therein so as to permit him under section 544.13 to intervene in the proceedings. *State ex rel v Bentley*, 216 M 147, 12 NW(2d) 347.

Section 501.33 relates to procedure, not to jurisdiction, in the administration of trust property. Courts of equity have authority to supervise the administration of trusts, to the end that beneficiaries incapable of looking out for themselves may be protected against the fraud, incompetency, or neglect of trustees. *Wertin v Wertin*, 217 M 51, 13 NW(2d) 749.

Under section 205 (c.e.) of the federal price control act, state courts, including the municipal court of the city of Minneapolis, are authorized to take jurisdiction of proceedings to recover rental payments in excess of the maximum rent regulations provided for under said act. The recovery in favor of the person injured is remedial rather than criminal. *Desper v Warner*, 219 M 607, 18 NW(2d) 62.

Jurisdiction of state courts extends over Indian country except as limited by treaties or federal laws, to prosecute white persons or non-tribal Indians for crimes committed upon Indian reservations. *State ex rel v Utecht*, 220 M 431, 19 NW(2d) 706.

United States district courts have no power to order transfer of a case from one district to a district in another state; and while the act transferring the instant case is void, the case should be remanded back to the original district and not dismissed. *Brown v Hejnen*, 61 F. Supp. 563.

Federal district court had jurisdiction of action to enjoin enforcement of zoning ordinance as one arising under the constitution of the United States, on the ground that the ordinance deprived plaintiff of property without due process of law and denied them equal protection of law in violation of fourteenth amendment. *Dennis v Village of Tonka Bay*, 151 F(2d) 411.

Judicial regulation of court procedure. 2 MLR 81.

Social aspects of Minneapolis courts. 6 MLR 259.

Validity of the acts of unrecognized de facto governments in the courts of non-recognizing states. 13 MLR 216.

Discretion to dismiss actions between non-residents in causes of actions arising outside the state. 15 MLR 83, 115.

Jurisdictional amount in representative suit. 15 MLR 501.

Class suits and the federal rules. 22 MLR 34.

The shifting basis of jurisdiction. 17 MLR 146.

Jurisdiction of the federal courts relating to a jurisdictional amount. 19 MLR 768.

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Extent of federal control (U.S. const. art. 1, s. 8, clause 3) over navigable waters. 20 MLR 798.

Federal jurisdiction; amount in controversy; cases involving insurance contracts and counter-claims. 25 MLR 356.

Action brought by one spouse against the other for personal injury sustained in a foreign state. 25 MLR 944.

No action can be maintained upon a cause of action created in another state the enforcement of which is contrary to the strong policy of the forum. Restatement, Conflict of Laws, s. 612.

Jurisdiction to affect foreign lands by decrees in personam. 26 MLR 262.

Retroactive effect of decision changing a statutory interpretation. 26 MLR 658.

De facto courts and officers. 29 MLR 36.

Judicial basis for Nuernberg trial. 30 MLR 313.

Enforcement of federal rights by state courts. 30 MLR 549.

484.03 WRITS.

Writ of quo warranto is not the remedy for official misconduct and so not to be employed to test the legality of official action. No right to office or franchise being involved in the instant case to test the right, in a claimed emergency, of certain state officers to purchase supplies for the organized militia without competitive bidding. *State ex rel v Gravlin*, 209 M 136, 295 NW 654.

A relator in quo warranto claiming an office against an incumbent can prevail only in the strength of his, not the weakness of the incumbent's, right thereto. *State ex rel v Turnbull*, 212 M 382, 3 NW(2d) 674.

Quo warranto is the proper and, in the absence of statute, the exclusive proceeding to determine the legal existence or validity of the organization of a public corporation. Section 480.04 provides that the writ may issue from the supreme court, and section 484.03 that the writ may issue from the district court. The attorney general may determine in which court he wishes to bring the action. *State v Village of North Pole*, 213 M 302, 6 NW(2d) 458.

Where there have been continual and persistent violations of the liquor statutes and repeated convictions have failed to abate them, an injunction is properly granted; and the court has power to enjoin the sale of 3.2 beer upon the premises where there have been persistent violations of the liquor laws if it is necessary to do so in order to prevent the illegal sale of intoxicating liquor. *State v Preuss*, 217 M 100, 13 NW(2d) 774.

Private individual's right to institute proceedings under section 484.03 10 MLR 176.

Quo warranto to prevent corporations from violating the criminal law. 12 MLR 422.

Shifting basis of jurisdiction. 17 MLR 150.

Removal from public office by court action. 20 MLR 729.

Quo warranto; estoppel against the state; discretion of the court. 22 MLR 745.

Right of one district court to enjoin the enforcement of the judgment of another. 25 MLR 378.

484.04 WRITS; PROCESS.

Quo warranto is the proper remedy for adjudicating the right of trustees of a corporation to hold their corporate offices. *Ray v Homewood Hospital*, 223 M 440, 27 NW(2d) 409.

484.05 JUDGE MAY ACT IN ANOTHER DISTRICT.

Privileged communications; privilege of judge. 4 MLR 1.

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Delegation of a judicial function to the executive. 22 MLR 729.

484.07 COURT NOT OPEN SUNDAY; EXCEPTION.

Justice court trials of traffic violations is invalid. OAG Aug. 13, 1942 (266-B-11).

484.08 DISTRICT COURTS TO BE OPEN AT ALL TIMES.

Except by the consent of the parties, or where expressly so authorized by statute, the district courts of the state have no authority or jurisdiction to convene for the trial of actions or proceedings involving issues of fact at any place in the county other than the county seat. *Bell v Jarvis*, 98 M 109, 107 NW 547.

484.15 SEVENTH JUDICIAL DISTRICT.

Amended by L. 1947 c. 347 s. 1.

484.19 ELEVENTH JUDICIAL DISTRICT, TERMS OF COURT.

The action not involving the title to real estate, the trial court did not err in denying a change of venue from Virginia to Duluth, in an action for damage for destruction of crops from overflow caused by dam. *Thompson v St. Louis River Dam Co.* 113 M 425, 129 NW 780.

The provision that cases involving title to real estate must be tried at Duluth except by consent of parties, is a rule of procedure or practice, and a party who goes to trial in Virginia without raising an objection cannot after a decision raise the point. *Re Marttinen*, 171 M 475, 214 NW 469.

484.22 FOURTEENTH JUDICIAL DISTRICT.

Amended by L. 1947 c. 353 s. 1.

484.29 ABSENCE OF JUDGE; WHO MAY ACT.

When a judge who tries a case is disabled from hearing a motion for amended findings or a new trial, a judge of the same judicial district, without the consent of the parties, may hear such motion. Though such judge has no authority to change findings of fact, he may make corrections in the conclusions of law to conform to the findings of fact. *In re Hallock's Estate*, 221 M 25, 20 NW(2d) 881.

Right to have motion for new trial heard by the judge who tried the case. 17 MLR 673.

484.33 RULES OF PRACTICE.

Judicial regulations of court procedure. 2 MLR 81; L. 1947, c. 498.

Validity of court rules when in opposition to statute. 5 MLR 73; L. 1947 c. 498.

Attorney as surety for client in legal proceedings. 5 MLR 469.

Federal appellate practice as affected by new rules of civil procedure. 24 MLR 1.

Federal rules of civil procedure. 26 MLR 125.

Problems concerning motions under federal rule 12(b). 27 MLR 415.

484.42 RECORDS.

Court will take judicial notice of its own records. *Bowe v Willcuts*. 45 F(2d) 394.

484.50 SUMMONS; PLACE OF TRIAL.

Strom v Lindstrom, 201 M 226, 275 NW 833, followed as to the effect of failing to note on summons in an action brought in St. Louis county that plaintiff desires the action "to be tried at the village of Hibbing." The preponderance of the showing as to convenience of witnesses is so greatly in favor of the trial at Duluth that it was an abuse of discretion to change the venue to Hibbing. *Merchants Bank v Maurer*, 215 M 575, 10 NW(2d) 770.