

MINNESOTA STATUTES 1953 ANNOTATIONS

CHAPTER 484

DISTRICT COURTS

484.01 JURISDICTION

HISTORY. 1849 c 20 s 10; RS 1851 c 69 art 2 s 3; PS 1858 c 57 s 1; GS 1866 c 64 s 1; GS 1878 c 64 s 1; GS 1894 s 4833; RL 1905 s 90; GS 1913 s 143.

Judicial responsibility. 32 MLR 1.

Where two actions between the same parties, on the same subject, and to test the same rights are brought in different courts having concurrent jurisdiction, the court which first acquires jurisdiction, its power being adequate to the administration of complete justice, retains its jurisdiction and may dispose of the whole controversy, and no court of coordinate jurisdiction is at liberty to interfere with its action. In the instant case, since the two actions or proceedings do not involve the same parties or the same subject and are not brought to test the same rights, the basis for an absolute writ of prohibition is lacking. *State ex rel v District Court*, 222 M 546, 25 NW(2d) 692.

Trustees of a charitable corporation as members of its managing body are charged with the same fidelity in the performance of functional duty as are the directors of private business corporations. The proper remedy for adjudicating the right of trustees of a corporation to hold their corporate office is quo warranto. *Ray v Homewood Hospital*, 223 M 440, 27 NW(2d) 409.

The courts have jurisdiction to determine the rights of an employee under a contract between a railroad and its employees' statutory bargaining representative even though statutory remedies under the Railway Labor Act have not been exhausted. *Edelstein v Duluth & Missabe*, 225 M 508, 31 NW(2d) 465.

A statute defining and limiting jurisdiction is to be construed as jurisdictional and as limiting the power of the court to act. Jurisdiction of the subject matter cannot be conferred by consent of the parties. *Land O'Lakes Dairy v County of Douglas*, 225 M 535, 31 NW(2d) 474.

In a case entertained by it, the district court's jurisdiction over the parties and the subject will be presumed unless it is affirmatively shown on the face of the record or by extrinsic evidence in a direct attack on the judgment that there was a lack of jurisdiction. *Great Northern Railway Co. v District Court*, 227 M 482, 36 NW(2d) 336.

Since a probate court has exclusive original jurisdiction to adjudicate whether a person qualified as an heir, devisee, or legatee, who may lawfully take a share of the deceased person's estate, the district court is wholly without such original jurisdiction and may not by injunction or otherwise impair or otherwise interfere with the probate court's original jurisdiction. The district court may, however, exercise ancillary jurisdiction to aid, but not to obstruct, the probate court in the performance of its function in special cases where without such aid, the probate court would be unable to afford an adequate remedy for alleged wrong. *Vesey v Vesey*, 237 M 10, 295, 53 NW(2d) 809.

Illinois guardian appointed for Minnesota minor by Minnesota court could not maintain action in Minnesota courts in his own name for injuries to infant, and hence could not maintain it in federal court, so that jurisdictional diversity of citizenship was lacking in action by such guardian against Minnesota defendants. *Martineau v City of St. Paul*, 172 F(2d) 777.

484.02 CONCURRENT JURISDICTION; BOUNDARY WATERS

Federal jurisdiction over a non-federal issue when joined with a federal question. 34 MLR 559.

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Power of the asylum state to free a fugitive who pleads in defense violation of his constitutional rights. 34 MLR 565.

Power to decline the exercise of federal jurisdiction. 37 MLR 46.

484.03 WRITS

HISTORY. RS 1851 c 69 art 2 s 4; RS 1851 c 83 s 17; 1852 Amendment p 15 s 63; PS 1858 c 57 s 2; PS 1858 c 73 s 17, 26; 1862 c 17; GS 1866 c 64 s 3; GS 1866 c 80 s 12, 22; GS 1878 c 64 s 3; GS 1878 c 80 s 12, 23; 1881 c 8; GS 1894 s 4837, 5985, 5996; 1895 c 25; 1897 c 7; RL 1905 s 92; GS 1913 s 145.

Power to issue writ of habeas corpus; scope of the inquiry extended to matters outside of and contradictory to the record. 32 MLR 507.

Temporary impossibility due to government regulations. 33 MLR 181.

New automobile dealer's option to repurchase if the buyer decides to resell. 33 MLR 184.

Type of administrative action subject to control by a writ of quo warranto. 37 MLR 1.

Power of federal courts to issue writ of habeas corpus; territorial jurisdiction of court. 33 MLR 197.

Judicial control of administrative action by means of extraordinary remedies in Minnesota. 33 MLR 569.

History of the Minnesota statutes pertaining to the extraordinary remedies in general. 33 MLR 571.

Judicial control of administrative action. 333 MLR 569.

Mandatory injunction, return of specific chattels converted by defendant. 34 MLR 147.

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

The granting or withholding of leave to file an information in the nature of quo warranto at the instance of a private relator, with the consent of the attorney general to test the right of office or franchise, rests in sound discretion of court to which application is made, even though there is substantial defect in title by which office or franchise is held. *State ex rel v Todd*, 225 M 91, 29 NW(2d) 810.

Section 125.03 is not applicable to the special school district of the city of Minneapolis so as to authorize its board of education to fill vacancies on its school board; such power being vested under the provisions of special Acts and the home rule charter in the city council in the city of Minneapolis. Through quo warranto proceedings a writ of ouster was issued against the person selected by the board of education by the city of Minneapolis. *State ex rel v Salisbury*, 228 M 367, 37 NW(2d) 444.

A proceeding in quo warranto by the state, not prohibition, is the proper remedy for testing the title of a judge to this office. *State ex rel v Beaudoin*, 230 M 186, 40 NW(2d) 885.

Except under extraordinary or exceptional circumstances a private citizen has no right to the use of quo warranto to test the title of an incumbent of a public office. *State ex rel v Thuet*, 230 M 365, 41 NW(2d) 585.

To justify the issuance of a writ of prohibition, it must appear: that the court, officer, or person against whom it issues is about to exercise a judicial or quasi judicial power; that the exercise of such power of such court, officer, or person is unauthorized by law; and that it will result in injury for which there is no other adequate remedy at law. *Bellows v Ericson*, 233 M 320, 46 NW(2d) 654.

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Failure of the city civil service commission to comply with a mandatory statutory provision requiring keeping of a proper register will prevent an employee acquiring a civil service status. An applicant lowest in civil service examination may not be given preference by the expedient of placing him in a nonexistent classification for which no examination is given. Evidence discloses such failure to comply with the mandatory provisions of Minnesota Statutes, Chapter 419, that the appellant never acquired a civil service status. *State ex rel v Thorfinnson*, M, 61 NW(2d) 231.

Presence within the territorial jurisdiction of the federal district court of the person detained is prerequisite to filing and petition for a writ of habeas corpus; and the district court of the District of Columbia is without jurisdiction to grant the writ to Germans detained at Ellis Island, N. Y., for deportation to Germany. *Ahrens v Clark*, 68 SC 1443.

Where court was convened upon an order of the presiding judge, the court was not in session within the meaning of section 485.013. OAG May 16, 1950 (144-A-4).

484.04 TESTING WRITS

Type of administrative action subject to control by a writ of quo warranto. 37 MLR 1.

Pursuant to section 413.14, any incorporated city of 10,000 inhabitants or less, may validly annex abutting unplatted property, even though such property lies within an unincorporated township which qualifies for the limited village powers conferred by section 368.01. *State ex rel v City of Anoka*, M, 61 NW(2d) 237.

The sole owner of two separate tracts, each contiguous to a city, may include both tracts in a single petition for annexation. *State ex rel v City of Anoka*, M, 61 NW(2d) 237.

484.05 JUDGE MAY ACT IN ANOTHER DISTRICT

HISTORY. RS 1851 c 69 art 2 s 8; 1858 c 67 s 3; PS 1858 c 57 s 6; 1863 c 42; GS 1866 c 64 s 5, 8; GS 1878 c 64 s 5, 8; 1891 c 77 s 1; GS 1894 s 4839, 4843; RL 1905 s 94; 1907 c 157 s 1; GS 1913 s 147.

484.06 JUDGE NOT TO PRACTICE LAW

Attorney conducting trial where partner is a witness. 36 MLR 155.

484.09 FIRST JUDICIAL DISTRICT

HISTORY. RL 1905 s 97; 1909 c 244 s 1; 1911 c 6 s 1; GS 1913 s 151; 1915 c 327 s 1; 1921 c 199 s 1; 1951 c 53 s 1; 1951 c 603 s 1.

484.10 SECOND JUDICIAL DISTRICT

HISTORY. RL 1905 s 97; 1909 c 244 s 1; GS 1913 s 150; 1917 c 5 s 1.

484.11 THIRD JUDICIAL DISTRICT

HISTORY. RL 1905 s 97; 1909 c 244 s 1; GS 1913 s 150; 1917 c 2 s 1; 1921 c 103 s 1; 1923 c 14 s 1, 2; 1925 c 84 s 1, 2; 1935 c 62 s 1; 1951 c 290 s 1.

484.12 FOURTH JUDICIAL DISTRICT

HISTORY. RL 1905 s 97; 1909 c 244; GS 1913 s 150.

484.13 FIFTH JUDICIAL DISTRICT

HISTORY. RL 1905 s 97; 1909 c 244; 1913 c 326 s 1; GS 1913 s 152; 1925 c 99 s 1; 1933 c 15 s 1.

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484.14 SIXTH JUDICIAL DISTRICT

HISTORY. RL 1905 s 97; 1909 c 244 s 1; GS 1913 s 150; 1937 c 5 s 1, 2; 1937 c 184 s 1-3.

484.15 SEVENTH JUDICIAL DISTRICT

HISTORY. Amended, 1949 c 345 s 1; 1951 c 410 s 1; 1953 c 272 s 1.

484.16 EIGHTH JUDICIAL DISTRICT; TERMS OF COURT

HISTORY. RL 1905 s 97; 1909 c 244 s 1; GS 1913 s 150; 1921 c 73 s 1; 1923 s 249; 1937 c 127 s 1; 1949 c 9 s 1.

484.17 NINTH JUDICIAL DISTRICT

HISTORY. Amended, 1949 c 129 s 1.

484.18 TENTH JUDICIAL DISTRICT

HISTORY. RL 1905 s 97; 1909 c 244 s 1; GS 1913 s 150; 1917 c 367 s 1; 1919 c 29; 1935 c 182 s 1; 1945 c 265 s 1; 1951 c 12 s 1.

484.19 ELEVENTH JUDICIAL DISTRICT; TERMS OF COURT

HISTORY. RL 1905 s 97; 1909 c 244 s 1; 1909 c 126; 1911 c 42; 1911 c 368 s 1, 2; 1913 c 522 s 1; GS 1913 s 154, 176, 177; 1915 c 93 s 1, 2; 1921 c 302 s 1; 1925 c 218; 1929 c 118; Ex1936 c 111; 1937 c 48 s 1, 2; 1945 c 5 s 1; 1949 c 169 s 1; 1949 c 730 s 1; 1953 c 19 s 1.

Where defendants in an action in ejectment admitted plaintiff's legal title to the realty involved but claimed the right to possession thereof under an oral agreement with plaintiff involving other personal obligations of both parties and plaintiff denied the existence of such agreement, the disputed agreement and not the title to realty was the main issue and the action was not an "action to determine title to realty" within the meaning of the statute requiring all such actions brought in St. Louis County to be tried in the county seat. Defendant was entitled to a peremptory writ of mandamus requiring the district court to remand the cause for trial to the district court in Virginia, Minnesota, where defendant resided. *Fitger Brewing Co. v Cupoletti*, 235 M 559, 49 NW(2d) 584.

484.20 TWELFTH JUDICIAL DISTRICT

HISTORY. RL 1905 s 97; 1909 c 244 s 1; GS 1913 s 150; 1923 c 290 s 1; 1927 c 55 s 1; 1933 c 11 s 1; 1935 c 356 s 1; 1939 c 11; 1949 c 3 s 1.

484.21 THIRTEENTH JUDICIAL DISTRICT

HISTORY. RL 1905 s 97; 1909 c 244 s 1; 1913 c 52 s 1; GS 1913 s 155; 1921 c 57 s 1; 1929 c 3; 1933 c 22; 1939 c 36; 1943 c 38 s 1.

484.22 FOURTEENTH JUDICIAL DISTRICT

HISTORY. RL 1905 c 97; 1909 s 244; GS 1913 s 156; 1915 c 43 s 1; 1917 c 67 s 1; 1921 c 135 s 1; 1925 c 34 s 1; 1927 c 67 s 1; 1929 c 2; 1931 c 285 s 1; 1933 c 51 s 1; 1937 c 448 s 1; 1947 c 353 s 1; 1949 c 318 s 1; 1953 c 4 s 1.

Where a case involving a minor charged with the violation of a city ordinance is certified by the juvenile court back to the municipal court, and the matter is heard and disposed of by the municipal court, the city and not the county should pay the costs incurred. OAG July 14, 1952 (306-B-6).

484.23 FIFTEENTH JUDICIAL DISTRICT

HISTORY. RL 1905 c 97; 1909 c 244; GS 1913 s 157; 1921 c 143 s 1; 1923 c 222 s 2; 1925 c 344; 1927 c 197 s 1; Ex1933 c 15; 1937 c 261 s 1-4; 1951 c 414 s 1.

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484.24 SIXTEENTH JUDICIAL DISTRICT

HISTORY. RL 1905 s 97; 1909 c 244 s 1; 1913 c 263; GS 1913 s 158; 1915 c 64 s 1; 1927 c 22 s 1; 1951 c 1 s 1.

484.25 SEVENTEENTH JUDICIAL DISTRICT

HISTORY. RL 1905 s 97; 1909 c 244; GS 1913 s 150; 1921 c 174; 1929 c 16 s 1; 1951 c 139 s 1.

484.26 EIGHTEENTH JUDICIAL DISTRICT

HISTORY. RL 1905 s 97; 1909 c 244 s 1; GS 1913 s 150; 1919 c 88 s 1; 1937 c 267 s 1; Ex1937 c 18 s 1.

484.27 NINETEENTH JUDICIAL DISTRICT

HISTORY. Amended, 1951 c 6.s 1, 2.

484.30 ADJOURNED AND SPECIAL TERMS

HISTORY. RS 1851 c 69 art 2 s 19, 30; 1852 Amendment p 6 s 8; PS 1858 c 57 s 16; GS 1866 c 64 s 15; GS 1878 c 64 s 15; GS 1894 s 4850; RL 1905 s 99; GS 1913 s 161.

484.32 FAILURE TO HOLD TERM NOT TO AFFECT WRITS

HISTORY. RS 1851 c 69 art 2 s 10, 11; 1852 Amendment p 6 s 6; PS 1858 c 57 s 8, 9; GS 1866 c 64 s 10, 11; GS 1878 c 64 s 10, 11; GS 1894 s 4845, 4846; RL 1905 s 101; GS 1913 s 164.

484.33 RULES OF PRACTICE

The court rule-making power is not subject to overriding legislation. The term "subject to law" as used in the constitutional provision that the supreme court shall, subject to law, make rules governing practice and procedure, does not mean subject to legislation, but means substantive law as distinguished from pleading and practice. *Winberry v Salisbury*, 74 At(2d) 406.

484.35 TEMPORARY COURTHOUSES

HISTORY. RS 1851 c 69 art 2 s 20, 31; PS 1858 c 57 s 17; GS 1866 c 64 s 16; GS 1878 c 64 s 16; GS 1894 s 4851; 1897 c 361; 1899 c 233; RL 1905 c 102; GS 1913 s 165.

484.36 TERMS FOR NATURALIZATION

HISTORY. RS 1851 c 69 art 2 s 20, 31; PS 1858 c 57 s 17; GS 1866 c 64 s 16; GS 1878 c 64 s 16; GS 1894 s 4851; 1897 c 361; 1899 c 233; RL 1905 s 102; GS 1913 s 165.

484.49 TRIAL OF ACTIONS

Section 484.49 provides for trial at the location nearest defendant's residence but is qualified by section 484.19, subdivision 2, requiring certain actions to be tried at the county seat. But where the main issue in an action in ejectment brought in the district court for St. Louis county involved defendant's right to possession of realty located in the city of Virginia, based upon an oral agreement with plaintiff, and plaintiff's title to the realty was not in issue, defendant was entitled to a peremptory writ of mandamus requiring a remand of the cause for trial in Virginia, where defendant resided. *Fitger Brewing Co. v Cupoletti*, 235 M 559, 49 NW(2d) 584.

484.54 EXPENSES OF JUDGES

Section 484.54 authorizes reimbursement of district judges for traveling and hotel expenses when on official business away from their place of residence. Section

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CLERKS OF DISTRICT COURT 485.012

486.05 makes a similar provision for the court reporter. This reimbursement covers the actual expenses and is not a payment of mileage at any statutory rate. OAG Oct. 11, 1949 (141-D-7) (129).

It is difficult to state comprehensively the exact nature of a court. It is an instrument of government. It is a creation of the law, and in some respects it is an imaginary thing existing only in legal contemplation somewhat similar to a corporation. To attain the ends to be achieved as the result of the creation of a court, much is left to the discretion of the court. Without this discretion a court would be governmental machinery impotent to do justice. Discretion is limited only by the provision that it shall not be arbitrarily exercised. Courts have the inherent power to prescribe such rules of practice and rules to regulate their proceedings and facilitate the administrative justice as they deem necessary.

Under the provisions of section 484.54, the traveling expenses of a judge attending the conferences relating to rules, creation of a juror's manual, and the like, may be paid, if in the discretion of the court the expenses were incurred in the public interest. OAG July 3, 1950 (141-D-7).

Section 484.54 controls reimbursement to a district judge for railway, traveling, hotel and other expenses therein specified and any rule issued by the commissioner of administration inconsistent therewith is ineffectual. OAG Feb. 23, 1951 (141-D-7).

There is no statutory provision for payment by the county of the travel expenses of a district judge while acting as a juvenile court in attending a juvenile court conference. OAG Aug. 6, 1952 (141-D-7).

Whether a judge of the district court may be repaid for his expenses in attending a meeting of the advisory council of a state board of parole which was considering policy matter affecting probation, is a question of fact of which the judges themselves must be the better judge. If they decide that it is a part of their official duties, they are entitled to ask for and receive payment of their expenses. OAG Jan. 27, 1953 (141-D-7).

484.55 DEPUTY CLERKS, CERTAIN COUNTIES

HISTORY. 1953 c 214 s 1.

CHAPTER 485

CLERKS OF DISTRICT COURT

485.01 ELECTION, BOND, DUTIES

The office of deputy clerk of the district court and deputy county treasurer are incompatible. The same person cannot hold both offices. OAG Jan. 20, 1950 (358-B-1).

Papers delivered to the clerk for filing and keeping must be placed where they may be readily found so that the fact of filing may be discovered upon examination by one interested in the subject. OAG Feb. 8, 1949 (850-I).

485.011 SALARIES, COUNTIES OF LESS THAN 60,000

HISTORY. 1909 c 335 s 1; GS 1913 s 236; 1943 c 191 s 1; 1953 c 295 s 1.

485.012 CLASSIFICATION, COUNTIES

HISTORY. 1909 c 335 s 2; 1913 c 511 s 1; GS 1913 s 237; 1943 c 191 s 2; 1953 c 295 s 2.