

21079
65

GENERAL STATUTES

OF THE

STATE OF MINNESOTA.

PREPARED BY THE COMMISSIONERS APPOINTED TO REVISE
THE STATUTES OF THE STATE, BY ACT OF THE
LEGISLATURE, PASSED FEBRUARY 17, 1863.

ONE HUNDRED COPIES ORDERED PRINTED.



SAINT PAUL:

FREDERICK DRISCOLL, STATE PRINTER.

(PRESS PRINTING COMPANY.)

1865.

27

D

7 pending therein stand continued until the next regular or
8 special term.

1 SECT. 8. If neither of the judges appear, the clerk of
2 said court may adjourn from day to day, as provided in the
3 preceding section. C. S. p. 475, Sect. 9. c56

1 SECT. 9. Whenever from any cause, it appears to the
2 judges of said court, or any two of them, that the public in-
3 terests require that a special term of the said court be held,
4 the said judges, or any two of them, have authority to ap-
5 point a special term, giving twenty days' previous notice
6 thereof, by advertisement published in a newspaper at the
7 seat of government of the state. C. S. p. 476, Sect. 10.

1 SECT. 10. Whenever there is no general term of said
2 court at the time fixed therefor by law, for any cause, or
3 whenever there is a continuance of the term of said court,
4 or a change in the time of holding any term by act of the
5 legislature, all causes then upon the calendar of said court,
6 all writs, recognizances, appeals, and proceedings com-
7 menced, taken, or made returnable to said court at said
8 term, shall stand over to and be heard at the next general
9 or special term, with like effect as if no such failure, contin-
10 uance or change had occurred. New.

CHAPTER LXIV.

DISTRICT COURTS.

TITLE I.

POWERS AND JURISDICTION.

1 SECTION 1. The district courts of this state have original
2 jurisdiction in all civil actions within their respective dis-
3 tricts, when the sum in controversy exceeds one hundred
4 dollars; and in all civil actions of which a justice of the
5 peace has not jurisdiction, whatever the amount in contro-
6 versy; and the said courts, respectively, have original jur-
7 isdiction, to hear and determine all cases of crimes and mis-
8 demeanors committed in any county or place within their
9 respective districts, when the punishment exceeds three
10 months' imprisonment, or a fine of more than one hundred
11 dollars, and appellate jurisdiction in civil and criminal cases
12 from courts of probate and justices of the peace, as pres-
13 cribed by law. C. S. p. 473, Sect. 1.
Amended. c57

c57

C. S. p. 480, Sect. 19.
Amended.

1 SECT. 2. The district courts have original jurisdiction in
2 equity and all suits or proceedings instituted for equitable
3 relief are to be commenced, prosecuted, and conducted to
4 a final decision and judgment, by the like process, plead-
5 ings, trial, and proceedings as in civil actions, and shall be
6 called civil actions.

C. S. p. 478, Sect. 2.

1 SECT. 3. The said courts in term time, and the judges
2 thereof in vacation, have power to award throughout the
3 state, returnable to the proper county, writs of injunction,
4 *ne execat*, and all other writs or processes necessary to the
5 perfect exercise of the powers with which they are vested,
6 and the due administration of justice.

C. S. p. 478, Sect. 3.

1 SECT. 4. No judge of any of the courts of record of this
2 state, shall sit in any cause in which he is interested, either
3 directly or indirectly, or in which he would be excluded
4 from sitting as a juror.

c42

1863—p. 84, Sect. 1.
Amended.

1 SECT. 5. Whenever a judge of the district court is in-
2 terested as counsel or otherwise, in the event of any cause,
3 or matter pending before said court, in any county of his dis-
4 trict, another district judge, in an adjoining district, shall
5 when thereto requested by said judge, attend and try said
6 cause, and the judge of any district shall discharge the du-
7 ties of the judge of any other district, when convenience or
8 the public interest requires it; and whenever a district
9 judge is a party or otherwise interested in any cause, anoth-
10 er district judge in an adjoining district shall, when request-
11 ed as aforesaid, within his district, transact any *ex parte*
12 business, hear and determine motions and grant orders in
13 such causes when brought before him, which acts shall have
14 the same force as if done in the district in which such ac-
15 tions are pending.

c57

C. S. p. 478, Sect. 4.
Amended.

1 SECT. 6. No judge of any of the courts of record of this
2 state shall practice as an attorney or counsellor at law, ex-
3 cept in a cause in which he is a party in interest, nor shall
4 he receive any fees for any legal or judicial services, other
5 than those prescribed by law; nor shall he be the partner
6 of any practicing attorney in the business of his profession.
7 Each of the judges of the several district courts shall reside
8 permanently within their respective judicial districts, dur-
9 ing their term of office.

C. S. p. 478, Sect. 5

1 SECT. 7. No one of the courts of this state shall be
2 opened for any purpose on Sunday, other than to receive a
3 verdict, or discharge a jury; but this section shall not in
4 any wise prevent the judges of any of said courts ex-
5 ercising jurisdiction, in any case where it is necessary for

6 the preservation of the peace, the sanctity of the day, or for
7 arresting and committing an offender.

1 SECT. 8. In case any judge of a district court, from
2 sickness or any other cause is unable to hold any of his
3 courts, the clerk thereof shall in due time give notice of
4 such fact to the governor, who shall assign to one of the
5 other district judges to hold the courts in such district, un-
6 til the inability of the judge is removed. C. S. p. 478, Sect. 6. c 57

1 SECT. 9. In case the judge of any district court does not
2 attend at the place of holding the same, by four o'clock in
3 the afternoon, on the first day of the term, the sheriff or
4 clerk shall forthwith open and adjourn the same until nine
5 o'clock in the forenoon of the succeeding day; and if the
6 said judge does not then appear, the court shall again be
7 adjourned until nine o'clock of the next day, and if the judge
8 does not then appear, it shall be adjourned without day,
9 and the jury dismissed by one of said officers. C. S. p. 479, Sect. 7.
Amended.

1 SECT. 10. All persons bound by recognizance or other-
2 wise, to appear at any court, the term whereof is not held,
3 are bound to appear at the next succeeding general or spe-
4 cial term, and when the time of holding any court is chang-
5 ed, such persons are bound to appear at the term as so
6 changed. C. S. p. 479, Sect. 8.
Amended.

1 SECT. 11. No process, proceeding, or writ, civil or
2 criminal, before any of the said courts, shall abate or be dis-
3 continued by reason of any vacancy in the office, or change
4 of any judge, or of holding said court, but shall be pro-
5 ceeded in as if the said vacancy or change had not oc-
6 curred. C. S. p. 479, Sect. 9.
Amended.

1 SECT. 12. All writs or processes issuing from or out of
2 any of the said district courts, shall be tested in the name of
3 the presiding judge thereof. C. S. p. 479, Sect. 12.

1 SECT. 13. In all cases whereby the statutes of this state
2 any writ or process is required to be issued out of any of
3 the courts of record, the same shall be sealed with the seal
4 of the court, dated on the day on which it issued, signed
5 by the clerk, and made returnable on the first day of the
6 term succeeding its date when no other time is fixed by law,
7 or allowed by the rules or practice of the court for the re-
8 turn thereof. C. S. p. 479, Sect. 13.

1 SECT. 14. All writs or processes issuing from or out of
2 said courts shall, before the delivery thereof to the officer
3 whose duty it is to serve the same, be indorsed by the clerk, C. S. p. 479, Sect. 14.

4 with the name of the attorney or other person demanding
5 the process.

c57
C. S. p. 479, Sect. 16.
1 SECT. 15. The judge of any district court may adjourn
2 the same from time to time during any term thereof, hold
3 adjourned terms of said court at any time he may deem
4 proper, or appoint special terms in any county of his district,
5 for the trial of civil and criminal cases and issues of law,
6 giving twenty days' previous notice thereof, by advertise-
7 ment, published four successive weeks in a newspaper print-
8 ed in the said county, if there is one, and if not, in a paper
9 published at the capital, and also by posting a notice there-
10 of on the door of the place for holding the court, in the coun-
11 ty in which said term is to be held; and may direct grand
12 and petit jurors to be drawn and summoned for any ad-
13 journed or special term in the manner prescribed by law.
14 Special terms may also be appointed by said judge for the
15 hearing of issues of law, applications, motions, and all mat-
16 ters, except the trial of issues of fact, by causing an order
17 appointing said term to be made on the court journal of the
18 county, and a copy thereof to be posted in the office of the
19 clerk of the county for three successive weeks prior to the
20 time of holding the same.

C. S. p. 480, Sect. 17.
1 SECT. 16. Whenever the court house, or place of hold-
2 ing court, in any county, is destroyed, unsafe, unfit or in-
3 convenient for the holding of any court, or if no court house
4 is provided, the judge of the district may appoint some con-
5 venient building in the vicinity of the place where the court
6 is required to be held as a temporary place for the holding
7 thereof.

c21
1862—p. 76, Sect. 1.
Amended.
1 SECT. 17. Whenever at any term of any district court
2 there is a deficiency of jurors, the court may order a special
3 venire to issue to the sheriff of the county, commanding
4 him to summon from the county at large, a number therein
5 named of competent persons to serve as jurors for the term
6 or for any specified number of days. If at any term of such
7 court there is an entire absence of jurors of the regular pa-
8 nel, whether from an omission to draw or to summon such
9 jurors or because of a challenge to the panel, or from any
10 other cause, the court may in like manner order a special
11 venire to issue to the sheriff of the county, commanding
12 him to summon from the county at large a number therein
13 named of competent persons to serve as jurors during the
14 term.

TITLE II.

JUDICIAL DISTRICTS.

1 SECT. 18. The state is divided into judicial districts as
 2 follows: The counties of Goodhue, Dakota, Washington,
 3 Chisago, Pine, Kanabec, Saint Louis, Carlton, Lake, and
 4 Itasca constitute the first judicial district.

Schedule to Constitution, Sect. 14; 1860—p. 103, Sects. 1 & 2. c 10

1 SECT. 19. The county of Ramsey constitutes the second
 2 judicial district.

Schedule to Constitution, Sect. 14.

1 SECT. 20. The counties of Houston, Fillmore, Winona,
 2 Olmsted and Wabashaw constitute the third judicial district.

Schedule to Constitution, Sect. 14.

1 SECT. 21. The counties of Hennepin, Carver, Wright,
 2 Meeker, Sherburne, Anoka, Isanti, Manomin, Benton, Mor-
 3 rison, Crow Wing, Aiken, Cass, Pembina, Polk, Becker,
 4 Clay, Andy Johnson, Otter Tail, Wadena, Mille Lacs,
 5 Todd, Douglas, Pope, Stevens, Traverse, Stearns, Monon-
 6 galia and Kandiyohi constitute the fourth judicial district.

Schedule to Constitution; 1860—p. 104, Sect. 2 & other acts combined. c 10

1 SECT. 22. The counties of Scott, Rice, Steele, Waseca,
 2 Dodge, Mower, and Freeborn constitute the fifth judicial
 3 district.

Schedule to Constitution; 1860—p. 103, Sect. 1. c 10

1 SECT. 23. The counties of LeSueur, Sibley, Nicollet,
 2 McLeod, Lincoln, Blue Earth, Faribault, Martin; Jackson,
 3 Nobles, Rock, Pipestone, Murray, Cottonwood, Watonwan,
 4 Red Wood, Brown, Renville, Chippewa, Lac qui Parle and
 5 Big Stone constitute the sixth judicial district.

Schedule to Constitution; Special Laws of 1860—p. 76, 88 & other acts combined. c 41
c 13

24

TITLE III.

GENERAL TERMS.

1 SECT. 24. The general terms of the district court shall
 2 be held in each year at the times and places following: In
 3 the first judicial district—in the county of Goodhue, on the
 4 first Tuesday in December, and the third Tuesday in May.
 5 In the county of Dakota, on the third Tuesday in June,
 6 and the fourth Tuesday in January,
 7 In the county of Washington, on the second Tuesday in
 8 April and the second Tuesday in November.
 9 In the county of Chisago, on the third Tuesday in Octo-
 10 ber.
 11 In the county of St. Louis, biennially, on the first Tues-
 12 day in August.

1863—p. 85, Sect. 1; 1862—p. 111, Sect. 1; 1865—p. 145, Sect. 1; 1860—p. 223, Sect. 1, combined. c 43
c 55
c 75
c 71

- c 69 1864—p. 127, Sect. 1. 1 SECT. 25⁶. In the second judicial district—In the county
2 of Ramsey on the first Monday in May, and the first Thurs-
3 day after the first Monday in November.
- c 73 1865—p. 142, Sect. 1. 1 SECT. 26⁷. In the third judicial district—In the county
2 of Olmsted, on the second Monday in March, and the first
3 Monday in October.
4 In the county of Winona, on the fourth Monday in March,
5 and the second Monday in September.
6 In the county of Houston, on the first Tuesday after the
7 first Monday in May, and the first Tuesday after the third
8 Monday in October.
9 In the county of Fillmore, on the first Tuesday after the
10 third Monday in May, and the first Tuesday after the second
11 Monday in November.
12 In the county of Wabashaw, on the first Tuesday after
13 the first Monday in June, and the first Tuesday after the
14 fourth Monday in November.
- c 24 — 1864—p. 72, Sect. 1;
c 57 — C. S. p. 484, sub. 4;
c 51 — 1862—p. 108, Sect. 1. 1 SECT. 27⁸. In the fourth judicial district—in the county
2 of Hennepin, on the first Tuesday in May, and the third
3 Tuesday in November.
4 In the county of Stearns on the second Tuesday in April,
5 and the first Tuesday in October.
6 In the county of Carver on the third Tuesday in October.
7 In the county of Morrison on the first Tuesday in Sep-
8 tember.
9 In the county of Meeker on the second Tuesday in Sep-
10 tember.
11 In the county of Benton on the third Tuesday in Septem-
12 ber.
13 In the county of Wright on the fourth Tuesday in Sep-
14 tember.
15 In the county of Sherburne on the second Tuesday in
16 December.
17 In the county of Anoka on the third Tuesday in December.
18 In the county of Crow Wing on the last Tuesday in Au-
19 gust.
20 In the county of Mille Lacs biennially on the first Tuesday
21 in June.
- e 26 — 1860—p. 178, Sect. 1;
c 29 — 1861—p. 140, Sect. 1,
c 31 — p. 142, Sect. 1; 1863
e 44 — 86, Sect. 1, com-
bined. 1 SECT. 28⁹. In the fifth judicial district—in the county of
2 Waseca on the third Monday in February.
3 In the county of Dodge on the first Monday in March,
4 and the first Monday in September.
5 In the county of Mower on the second Monday in March.
6 In the county of Freeborn on the fourth Monday in
7 March, and the fourth Monday in September.
8 In the county of Rice on the first Monday in May, and
9 the first Monday in October.

10 In the county of Scott on the third Monday in April, and
11 the second Monday in November.

12 In the county of Steele on the first Monday in April, and
13 the first Monday in December.

1 SECT. 29. ³⁰ In the sixth judicial district—in the county
2 of Brown on the third Tuesday in June.

3 In the county of Blue Earth on the third Tuesday in
4 May, and the first Tuesday in December.

5 In the county of Faribault on the first Tuesday in June.

6 In the county of Martin on the third Tuesday in July.

7 In the county of McLeod on the second Tuesday in Sep-
8 tember.

9 In the county of Nicollet on the first Tuesday in May, and
10 the first Tuesday in November.

12 In the county of Sibley on the second Tuesday in April,
13 and the second Tuesday after the first Monday in October.

14 In the county of LeSueur on the third Tuesday in March,
15 and the third Tuesday in September.

16 In the county of Renville on the first Thursday in July.

1863—p. 143, Sect. 1: — c 74

1862—p. 100, Sect. 5. — c 52

Amended.

1863 c 44 s1

1 SECT. 30. The judge of any judicial district may hold
2 a term of court in any county in his district, for which gen-
3 eral terms are not provided by law, whenever in his discre-
4 tion any such term may be expedient and required to pro-
5 mote the ends of justice; and in such cases he shall cause
6 the same notice to be given, and shall possess the same
7 powers as are herein prescribed, with reference to special
8 terms; and whenever any such term or any special term is
9 appointed to be held in any county by the district judge he
10 shall cause the order therefor, and the order directing the
11 summoning of grand and petit jurors, if any, to be filed in
12 the office of the clerk of the district court in such county,
13 who shall file an attested copy thereof in the office of the
14 county auditor, and deliver a like attested copy to the
15 sheriff of such county.

New.

TITLE IV.

COUNTIES ATTACHED TO OTHERS FOR JUDICIAL PURPOSES.

1 SECT. 31. ³ For judicial purposes, to enforce civil rights
2 and criminal justice, the counties of Pine and Kanabec are
3 attached to the county of Chisago; the counties of Carlton,
4 Itasca and Lake are attached to the county of Saint Louis;
5 the counties of Aiken, Cass, Pembina, Polk, Becker, Clay,
6 Andy Johnson, Otter Tail and Wadena are attached to the
7 county of Crow Wing; the counties of Mille Lacs and Todd

C. S. p. 485, Sect. 49. — c 57

Amended.

8 are attached to the county of Morrison; the counties of
 9 Douglas, Pope, Stevens and Traverse are attached to the
 10 county of Stearns; the counties of Monongalia and Kand-
 11 iah are attached to the county of Meeker: the counties of
 12 Chippewa, Lac qui Parle and Bigstone are attached to the
 13 county of Renville; the county of Lincoln is attached to
 14 the county of McLeod; the county of Manomin is attached
 15 to the county of Hennepin; the county of Isanti is attached
 16 to the county of Anoka; the counties of Jackson, Nobles
 17 and Rock are attached to the county of Martin; the coun-
 18 ties of Watonwan, Cottonwood, Murray, Pipestone and
 19 Redwood are attached to the county of Brown, and for such
 20 purposes, all the officers of the counties of Chisago, Saint
 21 Louis, Crow Wing, Morrison, Stearns, Meeker, Hennepin,
 22 Anoka, Renville, Martin and Brown, necessary to effect the
 23 same, shall have and exercise full jurisdiction, power and
 24 authority over and act in and for the counties respectively
 25 attached to said counties as aforesaid as fully as if they were
 26 part of the same.

CHAPTER LXV.

COURTS OF JUSTICES OF THE PEACE.

TITLE I.

JURISDICTION.

1 SECTION 1. The jurisdiction of a justice of the peace is
 2 co-extensive with the limits of the county in which he re-
 3 sides, except in the following cases:

4 *First.*—Writs of attachment may be directed to the pro-
 5 per officer in any county for the purpose of causing an at-
 6 tachment of property therein.

7 *Second.*—Garnishee process issued in an action before a
 8 justice may run into and be served on the garnishee in any
 9 county in the state.

c59

C. S. p. 498, Sect. 1.
Amended.

1 SECT. 2. Every justice of the peace shall keep his office
 2 in the town, city or ward for which he is elected; but he
 3 may issue process in any place in the county.

C. S. p. 498, Sect. 2.

1 SECT. 3. No justice of the peace shall hold his office in
 2 the same room with a practicing attorney, unless such at-
 3 torney is his law partner; and in that case, such partner
 4 shall not appear or practice as an attorney, in any case tried
 5 before such justice.

C. S. p. 498, Sect. 3.