

Statutes
1878

THE
GENERAL STATUTES
OF THE
STATE OF MINNESOTA,

As Amended by Subsequent Legislation.

PREPARED BY
GEORGE B. YOUNG.

EDITED AND PUBLISHED UNDER THE AUTHORITY OF CHAPTER 67 OF THE LAWS
OF 1878, AND CHAPTER 67 OF THE LAWS OF 1879.

FOURTH EDITION.

WITH SUPPLEMENTS,
CONTAINING ALL THE GENERAL LAWS IN FORCE UP TO THE END OF
THE LEGISLATIVE SESSION OF 1883.

SAINT PAUL:
WEST PUBLISHING COMPANY.
1883.

ever there is a continuance of the term of said court, or a change in the time of holding any term by act of the legislature, all causes then upon the calendar of said court, all writs, recognizances, appeals and proceedings, commenced, taken, or made returnable to said court at said term, shall stand over to, and be heard at, the next general or special term, with like effect as if no such failure, continuance or change had occurred.

CHAPTER LXIV.

DISTRICT COURTS.*

SECTION.

- 1-3. Powers and jurisdiction.
- 4-6. Duties and disabilities of judges.
- 7. Court not to be open on Sunday—exception.
- 8. Inability of judge—assignment of another judge.
- 9. Non-attendance at term—adjournment.
- 10. Omission to hold term—recognizances, etc.
- 11. Proceedings not affected by vacancy in office of judge.
- 12-14. Process, how tested, sealed, made returnable and endorsed.
- 15. Adjournments during term—adjourned and special terms.
- 16. Temporary place of holding court.
- 17. Special venire for jurors.

IN SECOND DISTRICT.

- 18-26. Judges—powers—terms—jurors—late court of common pleas superseded.

IN FOURTH DISTRICT.

- 27-36. Judges—powers—terms—jurors—late court of common pleas superseded.

MISCELLANEOUS PROVISIONS.

- 37. Annual meeting of judges—rules of practice.
- 38-41. Short-hand reporters—appointment—oath—duties—removal—effect of report—fees.

JUDICIAL DISTRICTS.

- 42-55. Constitution of the several districts.

SECTION.

GENERAL TERMS.

- 56-67. When held in the respective counties of the several districts.
- 68. In counties where no term is provided by law. COUNTIES ATTACHED TO OTHERS FOR JUDICIAL PURPOSES.
- 69. What counties are attached to others for such purposes.
- 70-77. Title of court for such counties—drawing of jurors—pending proceedings not affected—change of county for holding court—vacancy in office of clerk—delivery of prisoners—expenses of criminal actions—county commissioners of county where court is holden.
- 78-80. Appointment of clerk when county is detached—filing of papers when county is attached—duty of secretary of state.

MUNICIPAL COURTS.

- 81-103. Municipal court of St. Paul—jurisdiction—powers—proceedings, etc.
- 109-130. Municipal court of Minneapolis—jurisdiction—powers—proceedings, etc.
- 131-160. Municipal court of Stillwater—jurisdiction—powers—proceedings, etc.

TITLE 1.

POWERS AND JURISDICTION.

§ 1. Original and appellate jurisdiction of district courts. The district courts of this state have original jurisdiction in all civil actions within their respective districts, when the sum in controversy exceeds one hundred dollars; and in all civil actions of which a justice of the peace has not jurisdiction, whatever the amount in controversy; and the said courts, respectively, have original jurisdiction to hear and determine all cases of crimes and misdemeanors committed in any county or place within their respective districts, when the punishment exceeds three months' imprisonment, or a fine of more than one hundred dol-

*NOTE. To this chapter are appended the statutes relating to the municipal courts of St. Paul, Minneapolis and Stillwater, passed since 1866.

lars, and appellate jurisdiction in civil and criminal cases from courts of probate and justices of the peace, as prescribed by law.

2 M. 68 (86); 4 M. 1 (13); 6 M. 53 (110), 92 (150); 7 M. 316 (398); 9 M. 153 (166); 10 M. 173 (215), 195 (250), 295 (369).

§ 2. **Original jurisdiction in equity.** The district courts have original jurisdiction in equity; and all suits or proceedings instituted for equitable relief are to be commenced, prosecuted, and conducted to a final decision and judgment, by the like process, pleadings, trial and proceedings as in civil actions, and shall be called civil actions.

2 M. 21 (30); 6 M. 224 (319).

§ 3. **Power to issue writs and process.** The said courts in term time, and the judges thereof in vacation, have power to award throughout the state, returnable to the proper county, writs of injunction, ne exeat, and all other writs or processes necessary to the perfect exercise of the powers with which they are vested, and the due administration of justice.

2 M. 49 (61); 3 M. 145 (217); 4 M. 211 (294).

§ 4. **Disqualification of judge, from interest, etc.** No judge of any of the courts of record of this state shall sit in any cause in which he is interested, either directly or indirectly, or in which he would be excluded from sitting as a juror: *provided*, however, that such interest shall not disqualify such judge from ordering a change of venue in any such cause; but it shall be the duty of such judge, on the application of any party desiring a change of venue in such action, to order the same, upon a proper showing of such interest on the part of the judge, as in other cases of change of venue. (*As amended 1874, c. 72, § 1.*)

20 M. 313; 22 M. 245.

§ 5. **Judge of one district to act for judge of another.** Whenever a judge of the district court is interested, as counsel or otherwise, in the event of any cause or matter pending before said court, in any county of his district, another district judge, in an adjoining district, shall, when thereto requested by said judge, attend and try said cause; and the judge of any district shall discharge the duties of the judge of any other district, when convenience or the public interest requires it; and whenever a district judge is a party or otherwise interested in any cause, another district judge, in an adjoining district, shall, within his district, transact any *ex parte* business, hear and determine motions and grant orders in such causes, when brought before him, which acts shall have the same force as if done in the district in which such actions are pending.

§ 6. **Judge not to practise law—to reside in his district.** No judge of any of the courts of record in this state, judges of probate courts excepted, shall practise as an attorney or counsellor at law, except in a cause in which he is a party in interest; nor shall he receive any fees for any legal or judicial service other than those prescribed by law; nor shall he be the partner of any practising attorney in the business of his profession. Each of the judges of the several district courts shall reside permanently within their respective judicial districts during their term of office. (*As amended 1867, c. 87, § 1.*)

§ 7. **Court not to be opened on Sunday—exception.** No one of the courts of this state shall be open for any purpose on Sunday, other than to receive a verdict, or discharge a jury; but this section shall not in any wise prevent the judges of any of said courts exercising jurisdiction in any case where it is necessary for the preservation of the peace, the sanctity of the day, or for arresting and committing an offender.

§ 8. **Inability of judge to hold term.** In case any judge of a district court, from sickness or any other cause, is unable to hold any of his courts, the clerk thereof shall in due time give notice of such fact to the governor, who shall assign to one of the other district judges to hold the courts in such district, until the inability of the judge is removed.

§ 9. **Non-attendance of judge—adjournment of term.** In case the judge of any district court does not attend at the place of holding the same, by four o'clock in the afternoon on the first day of the term, the sheriff or clerk shall forthwith

open and adjourn the same until nine o'clock in the forenoon of the succeeding day; and if the judge does not then appear, the court shall again be adjourned until nine o'clock of the next day; and if the judge does not then appear, it shall be adjourned without day, and the jury dismissed, by one of said officers: *provided*, that any term of the said court, general or special, may be adjourned to a time certain, by the clerk or sheriff, upon the direction of the judge, either personally or communicated by letter or telegram, and without the presence of the judge. And in case of the adjournment of the court to a time certain, the juries may be required to appear at such adjournment thereon, without further notice. (*As amended 1876, c. 64, § 1.*)

§ 10. **Omission to hold term—persons under recognizance, etc.** All persons bound by recognizance, or otherwise, to appear at any court the term whereof is not held, are bound to appear at the next succeeding general or special term; and when the time of holding any court is changed, such persons are bound to appear at the term as so changed.

§ 11. **Vacancy, etc., in office of judge not to affect proceedings.** No process, proceeding or writ, civil or criminal, before any of the said courts, shall abate or be discontinued by reason of any vacancy in the office, or change of any judge, or of holding said court, but shall be proceeded in as if the said vacancy or change had not occurred.

§ 12. **Process, how tested.** All writs or processes issuing from or out of any of the said district courts, shall be tested in the name of the presiding judge thereof.

§ 13. **Process to be sealed—when returnable.** In all cases where, by the statutes of this state, any writ or process is required to be issued out of any of the courts of record, the same shall be sealed with the seal of the court, dated on the day on which it issued, signed by the clerk, and made returnable on the first day of the term succeeding its date, when no other time is fixed by law, or allowed by the rules or practice of the court, for the return thereof.

§ 14. **Process to be indorsed with name of attorney.** All writs or processes issuing from or out of said courts shall, before the delivery thereof to the officer whose duty it is to serve the same, be indorsed by the clerk with the name of the attorney or other person demanding the process.

§ 15. **Adjournments during term—adjourned and special terms.** The judge of any district court may adjourn the same from time to time during any term thereof, hold adjourned terms of said court at any time he may deem proper, or appoint special terms in any county of his district, for the trial of civil and criminal cases and issues of law, giving twenty days' previous notice thereof, by advertisement, published four successive weeks in a newspaper printed in the said county, if there is one, if not, in a paper published at the capital, and also by posting a notice thereof on the door of the place for holding the court, in the county in which said term is to be held; and may direct grand and petit jurors to be drawn and summoned for any adjourned or special term, in the manner prescribed by law. Special terms may also be appointed by said judge for the hearing of issues of law, applications, motions, and all matters except the trial of issues of fact, by causing an order appointing said term to be made on the court journal of the county, and a copy thereof to be posted in the office of the clerk of the county for three successive weeks prior to the time of holding the same.

§ 16. **Temporary place of holding court.** Whenever the court-house or place of holding court in any county is destroyed, unsafe, unfit or inconvenient for the holding of any court, or if no court-house is provided, the judge of the district may appoint some convenient building, in the vicinity of the place where the court is required to be held, as a temporary place for the holding thereof.

§ 17. **Special venire for jurors.** Whenever, at any term of any district court, there is a deficiency of jurors, the court may order a special venire to issue to the sheriff

of the county, commanding him to summon, from the county at large, a number therein named of competent persons, to serve as jurors for the term, or for any specified number of days. If, at any term of such court, there is an entire absence of jurors of the regular panel, whether from an omission to draw or to summon such jurors, or because of a challenge to the panel, or from any other cause, the court may in like manner order a special venire to issue to the sheriff of the county, commanding him to summon, from the county at large, a number therein named of competent persons, to serve as jurors during the term.

1 M. 257 (347); 10 M. 185 (233); 16 M. 282, 313; 17 M. 76.

DISTRICT COURT FOR SECOND DISTRICT.*

*§ 18. **Judges in second judicial district.** There shall be elected, in the second judicial district, three judges of the district court of such district, any one or more of whom shall have and exercise the powers of the court as now prescribed by law [relative] to the present judge of said court, except as otherwise provided by this act; and all laws now in force, whether general or special, as to the qualifications, election, canvass of votes, oath and term of office, and commencement of such term, compensation, jurisdiction, duties, authority and powers of the present judge of said district court, shall apply to all the judges of said court; and their successors shall be elected, and vacancies in their offices filled, as now provided in relation to the said judge of said court: *provided*, however, that the present judge of said court, and the judges of the court of common pleas of the county of Ramsey, shall be the judges of said district court for the unexpired terms for which they were elected, and until their successors are elected and qualified: *and provided further*, that each of said judges of the said court of common pleas shall, immediately after the passage of this act, take and file an oath of office as judge of said district court, in the same manner as is now prescribed by law relative to the present judge of such district court. (*Sp. Laws 1876, c. 209, § 1.*)

*§ 19. **Same—powers, etc.** The said judges, or a majority of them, may act in joint session, for the trial or determination of any matter before the court, including the trial of jury cases; and when so acting, the judge senior in office, or, if neither be senior in office, the judge senior in age, shall preside, and the decision of the majority shall be the decision of the court. If, however, only two of the said judges are so acting, and there is a division of opinion, the opinion of the presiding judge shall prevail. Process may be tested in the name of any one of the said judges. (*Id. § 2.*)

*§ 20. **Division of business.** The business of said court may be divided between the said judges, and otherwise regulated, by rules or otherwise, and each of the said judges may separately try court or jury cases, during the same term or at the same time. (*Id. § 3.*)

*§ 21. **Terms.** There shall be three general terms of said court in each year, for the transaction of both civil and criminal business, and said terms shall be held on the second Tuesday of January, and the first Tuesday of May, and the last Tuesday of September, respectively. (*Id. § 4, as amended 1878, c. 66, § 1.*)

*§ 22. **Drawing of jurors.** Grand and petit jurors shall be drawn for each of said terms, on or before fifteen days prior to each of said terms, and venires issued therefor and served as now provided by law; but no grand or petit jurors shall hereafter be drawn for said court of common pleas. (*Id. § 5.*)

*§ 23. **Recognizances and commitments—appeals.** All recognizances and commitments for criminal offences shall be made returnable to the said district court, and all appeals from justices of the peace, except from justices in the city of St. Paul, shall be taken to said district court. (*Id. § 6.*)

*An act relative to the judges of the district court for the second judicial district, and to merge the court of common pleas of Ramsey county into said district court. Approved March 2, 1876. (*Sp. Laws 1876, c. 209.*)

*§ 24. **District court to supersede the common pleas.** The court of common pleas of the county of Ramsey is hereby merged in said district court; and all business and proceedings in said court of common pleas, and pertaining and returnable thereto, and the possession, custody and control of all dockets, registers, judgment-books, records, files and papers of the said court of common pleas are hereby transferred to said district court; and all actions and proceedings now pending, on appeal or otherwise from said court of common pleas, in the supreme court, shall, when remitted, be remitted to the said district court; and all recognizances, bail-bonds, and other bonds, undertakings, executions, processes, appeals from justices of the peace, and all proceedings now outstanding, returnable to said court of common pleas, shall be returnable to said district court; and all liens and rights under judgments, transcripts of judgments, execution or attachment levies, or otherwise, in said court of common pleas, shall remain unimpaired by this act; and the said district court shall take cognizance of and have full jurisdiction, authority and power to proceed in, finish, complete and enforce and relieve against all such process, writs, levies, judgments, transcripts, actions and proceedings, as fully as if the same had been originally commenced in, taken to, or pending in said district court; and all executions, writs, process, certificates, and other proceedings hereafter taken in actions and matters now pending in said court of common pleas, or returnable or pertaining thereto, shall be entitled in the said district court; and it is the intent, and hereby declared to be the effect, of this act, that everything in the said court of common pleas, or pertaining or to appertain thereto, or which may arise therefrom, shall be acted on, disposed of and accomplished as fully and completely in the said district court as if originally the same therein were, whether it be specially or not in this act mentioned. (*Sp. Laws 1876, c. 209, § 7.*)

See 1883 Supp., p. 74.
*§§ 27, 27a.

*§ 25. **Return of recognizances, etc.** All recognizances, bonds, process and other papers, heretofore issued, returnable at any term of the district or common pleas court, as the said terms are established before the passage of this act, shall be returnable at the term of the district court, as now fixed, next succeeding that at which they were returnable. (*Id.* § 8.)

*§ 26. **Judges of court of common pleas.** The judges of the said court of common pleas, and the clerk thereof, shall cease to transact any business therein after this act takes effect; and the said judges of the court of common pleas shall receive no compensation as judges of said court of common pleas after this act takes effect, but shall receive the same compensation as judges of district court as received by the present judge of said district court. (*Id.* § 9.)

DISTRICT COURT FOR FOURTH DISTRICT.*

*§ 27. **Judges in fourth judicial district.** There shall be elected in the fourth judicial district, two judges of the district court of such district, any one or either or both of whom shall have and exercise the powers of the court as now prescribed by law relative to the present judge of said court, except as otherwise provided by this act; and all laws now in force, whether general or special, as to the qualifications, election, canvass of votes, oath and term of office, and commencement of such term, compensation, jurisdiction, duties, authority and powers of the present judge of said district court, shall apply to all the judges of said court; and their successors shall be elected, and vacancies in their offices filled, as now provided in relation to the said judges of said court: *provided*, however, that the present judge of said court, and the judge of the court of common pleas of the county of Hennepin, shall be the judges of said district court for the unexpired terms for which they were elected, and until

*An act relative to the judges of the district court for the fourth judicial district, and to merge the court of common pleas of Hennepin county into said district court. Approved February 26, 1877. (Laws 1877, c. 103.)

their successors are elected and qualified: *and provided further*, that said judge of the said court of common pleas shall, immediately after the passage of this act, take and file an oath of office as judge of said district court, in the same manner as is now prescribed by law relative to the present judge of such district court. (1877, c. 103, § 1.)

*§ 28. **Powers of judges.** The said judges may act in joint session for the trial or determination of any matter before the court, including the trial of jury cases; and, when so acting, the judge senior in office, or, if neither be senior in office, the judge senior in age, shall preside, and his decision shall be the decision of the court. Process may be tested in the name of either of the said judges. (*Id.* § 2.)

*§ 29. **Division of business.** The business of said court may be divided between the said judges, and otherwise regulated, by rules or otherwise; and each of the said judges may separately try court or jury cases during the same term or at the same time. (*Id.* § 3.)

*§ 30. **Terms of court.** There shall be three general terms of said court for the transaction of both civil and criminal business, and said terms shall be held at such times as may be provided by law. (*Id.* § 4.)

*§ 31. **Grand and petit jurors, when drawn.** Grand and petit jurors shall be drawn for each of said terms, on or before fifteen days prior to each of said terms, and venires issued therefor and served as now provided by law; but no grand or petit jurors shall hereafter be drawn or summoned for said court of common pleas. (*Id.* § 5.)

*§ 32. **Recognizances and commitments--appeals.** All recognizances and commitments for criminal offences shall be made returnable to the said district court, and all appeals from justices of the peace shall be taken to said district court. (*Id.* § 6.)

*§ 33. **District court to supersede common pleas.** The court of common pleas of the county of Hennepin is hereby merged in said district court; and all business and proceedings in said court of common pleas, and pertaining and returnable thereto, and the possession, custody, and control of all dockets, registers, judgment-books, records, files and papers of the said court of common pleas, are hereby transferred to said district court; and all actions and proceedings now pending, on appeal or otherwise from said court of common pleas, in the supreme court, shall, when remitted, be remitted to the said district court; and all recognizances, bail-bonds, and other bonds, undertakings, executions, processes, appeals from justices of the peace, and all proceedings now outstanding, returnable to said court of common pleas, shall be returnable to said district court; and all liens and rights under judgments, transcripts of judgments, execution or attachment levies, or otherwise, in said court of common pleas, shall remain unimpaired by this act; and the said district court shall take cognizance of, and have full jurisdiction, authority and power to proceed in, finish, complete and enforce, and relieve against, all such process, writs, levies, judgments, transcripts, actions and proceedings, as fully as if the same had been originally commenced in, taken to, or pending in said district court; and all executions, writs, process, certificates, and other proceedings hereafter taken in actions and matters now pending in said court of common pleas, or returnable or pertaining thereto, shall be entitled in [the] said district court; and it is the intent, and hereby declared to be the effect, of this act, that everything in the said court of common pleas, or pertaining or to appertain thereto, or which may arise therefrom, shall be acted on, disposed of and accomplished as fully and completely in the said district court as if originally the same therein were, whether it be specially or not in this act mentioned. (*Id.* § 7.)

*§ 34. **Return of recognizances, etc.** All recognizances, bonds, process, and other papers, heretofore issued, returnable at any term of the district court or common

pleas court, as the said terms were established before the passage of this act, shall be returnable at the term of the district court as now fixed, next succeeding that at which they were returnable. (1877, c. 103, § 8.)

*§ 35. **Judge and clerk of common pleas.** The judge of the said court of common pleas, and the clerk thereof, shall cease to transact any business therein, after this act shall take effect; and the said judge of the court of common pleas shall receive no compensation as judge of said court of common pleas, after this act takes effect, but shall receive the same compensation, as judge of the district court, as received by the present judge of said district court. (*Id.* § 9.)

*§ 36. **Court of common pleas abolished.** The court of common pleas of Hennepin county is hereby abolished; and all acts or parts of acts, in any wise in conflict with this act, are hereby repealed. (*Id.* § 10.)

RULES OF PRACTICE—SHORT-HAND REPORTERS.

*§ 37. **Annual meeting of judges—rules of practice.** The judges of the district courts of the several judicial districts, and of the several courts of common pleas of the state, shall, on the first Wednesday of July next, or on some day prior thereto, at their election, meet in general session at the capitol, in the city of Saint Paul, and adopt such general rules of practice in civil actions, not inconsistent with the constitution and laws of the state, or of the United States, as will secure a uniformity of practice throughout the state, as may be deemed necessary and just. The said judges shall meet annually thereafter, at the same place, on the first Wednesday of July, to revise such general rules, and make such amendments thereto, and such further rules, not inconsistent with the constitution and laws of the state or of the United States, as may be deemed necessary; and the same shall go into effect from and after their publication. The general rules so made shall govern all the district courts and courts of common pleas in this state: *provided*, that in any case, in furtherance of justice, said rules may be relaxed or modified, and a party may be relieved against the effect thereof, on such terms as may be just: *provided further*, that any six of said judges, so convened in general session as hereinbefore provided, shall transact the business and discharge the duties imposed by this act. (1875, c. 44, § 1.)

*§ 36. See 1883 *supp.*, p. 74.

*§ 38. **Appointment of short-hand reporters.** Each of the judges of the district court and of the courts of common pleas in this state is hereby authorized, in his discretion, to employ and appoint a short-hand writer, to make, in short-hand writing, a true record or report of the proceedings and evidence taken upon the trial of issues of fact in the several courts held in his district; and, when required by the court or either of the parties to any such trial, to transcribe such record or report into the words which shall be represented by the characters used by him in reporting such proceeding and evidence as the same shall occur: *provided*, however, that no such reporters shall be appointed in any county whose board of county commissioners shall not first authorize such appointment: *provided further*, that the provisions of this act shall not apply to the county of Ramsey, or be construed as repealing the special act relating thereto. (1874, c. 88, § 1, as amended 1877, c. 53, § 1.)

*§ 39. **Oath and duties of reporter—removal.** Before such reporter shall enter upon the performance of his duties, he shall take and subscribe an oath that he will, to the best of his knowledge and ability, keep, in short-hand writing, a true, full and accurate record of all the proceedings taken and evidence given upon the trials of issues of fact in the district court, when required so to do by the judge of said court, and that he will make and file with the clerk of the court a true and full transcript of his record or report in each case, into the words represented by the signs or characters which he shall use in his short-hand writing. Such oath shall be filed in the office of the clerk of the district court in one

of the counties in the district for which he is appointed. In reporting or recording the evidence of witnesses sworn and examined upon the trial of issues of fact, he shall record or report the questions put to the witnesses, and the answers thereto given by the witnesses, in the words used by the questioners and the witnesses. He shall not be required to report or record the arguments of counsel, but shall record all objections and the grounds thereof, as stated by counsel, and also the decisions or rulings of the court thereon, and exceptions taken by counsel to such decisions or rulings; and shall, immediately upon the completion of any trial, file his report in such short-hand writing, in the office of the clerk of the court where such trial was had, which report shall remain on file for the use of all parties interested; and in the performance of his duties, he shall be subject to the orders and discretions [directions] of the court; and the judge may at any time discharge such reporter, and employ and appoint another. (1874, c. 88, § 2.)

*§ 40. **Effect of report, when transcribed, etc.** When the record or report of a trial shall have been so made, transcribed and filed, and approved by the judge before whom such trial was had, it shall have such force and effect as a record of the court, and as a case, or bill of exceptions, as the court may, by general rule or order, prescribe. (*Id.* § 3.)

*§ 41. **Compensation of reporter—fees.** The amount or rate of compensation to be paid to such short-hand reporter shall be fixed by the judge who appointed him; and each county shall pay the compensation for his services during the time he shall be employed in the cases tried therein. The judge shall certify the time during which he shall be employed at any term in the county, and the amount to which he is entitled therefor. Upon the presentation of such certificate of the judge to the county auditor of the county, he shall draw his order, in favor of such reporter, upon the county treasurer, for the amount so certified; but such compensation shall not exceed ten dollars per day while employed in court, and fifteen cents per folio of one hundred words for the transcript: *and provided further*, that when such reporter shall be required by either of the parties to an action to transcribe his record into long-hand writing, the fees for such transcription as above provided for shall be paid by the party requiring the same. (*Id.* § 4.)

TITLE 2.

JUDICIAL DISTRICTS.

§ 42. (Sec. 18.) **First district.** The state is divided into judicial districts as follows: The counties of Goodhue, Dakota, Washington, Chisago, Pine and Kanabec, constitute the first judicial district. (*As amended 1870, c. 81, § 1.*)

§ 43. (Sec. 19.) **Second district.** The county of Ramsey constitutes the second judicial district. (*As amended 1870, c. 81, § 1.*)

§ 44. (Sec. 20.) **Third district.** The counties of Winona, Olmsted and Wabasha constitute the third judicial district. (*As amended 1870, c. 81, § 1. and 1872, c. 50, § 1.*)

§ 45. (Sec. 21.) **Fourth district.** The counties of Hennepin, Wright, Anoka and Isanti, constitute the fourth judicial district. (*As amended 1870, c. 81, § 1.*)

§ 46. (Sec. 22.) **Fifth district.** The counties of Rice, Steele, Wazeka and Dodge constitute the fifth judicial district. (*As amended 1870, c. 81, § 1, and 1872, c. 50, § 2.*)

§ 47. (Sec. 23.) **Sixth district.** The counties of Blue Earth, Faribault, Martin, Jackson, Nobles, Rock, Pipestone, Murray, Cottonwood and Watonwan, constitute the sixth judicial district. (*As amended 1870, c. 81, § 1.*)

§ 48. (Sec. 24.) **Seventh, eighth and ninth districts.** The counties of Stearns, Sherburne, Benton, Morrison, [Crow Wing, Aitkin, Cass,] Douglas, Todd, Mille Lacs,

[Polk, Stevens, Traverse, Pembina, Clay, Wilkin,] Grant, Otter Tail, [Wadena, Becker,] Pope, [Saint Louis, Carlton, Itasca, and Lake,] constitute the seventh judicial district; the counties of LeSueur, Scott, Carver, Sibley and McLeod constitute the eighth judicial district; and the counties of Nicollet, Redwood, Brown, Renville, [Chippewa, Lac qui Parle, Big Stone, Meeker,] Lincoln, [Monongalia and Kandiyohi,] constitute the ninth judicial district. (*As amended 1870, c. 81, § 1.*)

NOTE. The counties in brackets have been, by subsequent legislation, included in other districts. See the following sections:

The county of Lyon, carved out of Redwood county in 1869 (see *ante, c. 8, § 42*), is also included in the ninth district.

*§ 49. **Tenth district.** The counties of Houston, Fillmore, Mower and Freeborn, constitute the tenth judicial district, and shall elect a district judge therefor at the next general election: *provided*, however, this act shall in no wise effect, alter or change the duties of the district judges of the third or fifth judicial districts as now constituted, or the holding of courts or proceedings therein in the said counties of Houston, Fillmore, Mower and Freeborn, until there shall be duly elected and qualified a district judge for said tenth judicial district. (*1872, c. 50, § 3.*)

*§ 50. **Counties detached from seventh district.** That the counties of Crow Wing, Aitkin, Cass, Polk, Pembina,¹ Clay, Wadena, Becker, St. Louis, Carlton, Itasca, Lake, Traverse, be and the same are hereby detached from the seventh judicial district for judicial purposes. (*1874, c. 90, § 1.*)

*§ 51. **Eleventh district.** That the counties of Crow Wing, Aitkin, Cass, Polk, Pembina,¹ Clay, Wadena, Becker, Saint Louis, Carlton, Itasca, Beltrami, Lake [Traverse,] be and the same are hereby constituted the eleventh judicial district. (*Id. § 2.*)

Traverse county is now comprised in the twelfth district. See the next following section. The county of Cook, formed out of Lake, is also included in the eleventh district.

*§ 52. **Counties detached from the seventh district.** That the counties of Stevens, Traverse and Wilkin be and the same are hereby detached from the seventh judicial district, for judicial purposes. (*1875, c. 79, § 1.*)

*§ 53. **Counties detached from fourth district.** That the counties of Meeker, Swift and Kandiyohi be and the same are hereby detached from the fourth judicial district, for judicial purposes. (*Id. § 2.*)

*§ 54. **Counties detached from ninth district.** That the counties of Chippewa, Lac qui Parle, Yellow Medicine and Big Stone, be and the same are hereby detached from the ninth judicial district, for judicial purposes. (*Id. § 3.*)

*§ 55. **Twelfth district.** That the counties of Meeker, Kandiyohi, Stevens, Traverse, Wilkin, Swift, Chippewa, Lac qui Parle, Yellow Medicine and Big Stone, be and they are hereby erected into a new judicial district, to be known and designated as the twelfth judicial district of Minnesota. (*Id. § 4.*)

TITLE 3.

GENERAL TERMS.

*§ 56. **In first district.** The general terms of the district court of the first judicial district of this state shall be held at the times following:

In the county of Goodhue, on the first Tuesday in May, and the second Tuesday in December, in each year.

In the county of Dakota, on the third Tuesday in January, and the third Tuesday in June, in each year.

In the county of Washington, on the fourth Tuesday in May, and the second Tuesday in November, in each year.

In the county of Pine, on the first Tuesday in October, in each year.

¹ Now called Kittson. See *ante, c. 8, § 37.*

MINNESOTA STATUTES 1878

In the county of Chisago on the third Tuesday in October, in each year. (1873, c. 73, § 1.)

*§ 57. [For terms of court in second district, see *supra*, § 21.]

*§ 58. In third district. The general terms of the district court in and for the several counties of the third judicial district of this state shall be held as follows, viz:

In the county of Winona, on the fourth Monday of March, and the first Monday in October, of each year.

In the county of Wabasha, on the second Monday of May, and the first Monday of November, in each year.

In the county of Olmsted, on the fourth Monday of May, and the fourth Monday of November, in each year. (1876, c. 63, § 1.)

*§ 59. In fourth district. That general terms of the district court in the fourth judicial district shall be held each year as follows:

In the county of Anoka, on the first Tuesday in February, and the second Tuesday in September.

In the county of Hennepin, on the third Tuesday in February, the second Tuesday in May, and the third Tuesday in November.

In the county of Isanti, on the fourth Tuesday in September.

In the county of Wright, on the first Tuesday in April, and the second Tuesday in October. (1877, c. 124, § 1.)

*§ 60. In fifth district. The general terms of the district court in the fifth judicial district shall be held annually, at the times and places following, to wit:

In the county of Dodge, on the first Monday in March, and first Tuesday in October.

In the county of Rice, on the first Tuesday in May, and the second Tuesday after the first Monday in November.

In the county of Steele, on the first Tuesday in June, and first Tuesday in December.

In the county of Waseca, on the third Tuesday in March, and the third Tuesday in October, in each year. (1873, c. 77, § 1, as amended 1874, c. 97, § 1.)

*§ 61. In sixth district. In the sixth judicial district, in the county of Brown, on the third Tuesday of June. (1868, c. 90, § 1.)

In the county of Blue Earth, on the third Tuesday of May, and the first Tuesday of December. (*Id.*)

In the county of Faribault, on the first Tuesday in June, and the first Tuesday in January. (1870, c. 83, § 1.)

In the county of Martin, on the fourth Tuesday of January. (1871, c. 81, § 1.)

In the county of Jackson, on the fourth Tuesday in June of each year. (1871, c. 81, § 1.)

In the county of Nobles, on the first Tuesday in March of each year. (1873, c. 84, § 1.)

In the county of Rock, on the first Tuesday in April of each year. (1874, c. 91, § 2.)

In the county of Cottonwood, on the first Monday [Tuesday] after the fourth day of July. (1873, c. 85, § 2, as amended 1875, c. 75, § 1.)

In the county of Watonwan, on the second Tuesday in November of each year. (1875, c. 76, § 1.)

NOTE. In the foregoing section the editor has stated the result of the various acts therein cited, instead of confusing the reader by printing them *verbatim*.

*§ 62. In seventh district. That the general terms of the district court in the seventh judicial district shall be held in the several counties in said district at the times hereinafter described, to wit:

In the county of Sherburne on the second Tuesday of February in each year. (1873, c. 78, § 1.)

In the county of Stearns, on the second Tuesday of June, and the first Tuesday of December, in each year. (*Id.*)

*§ 59, 56, 61. See 1881 Sup. c. p. 94. And §§ 61, 62. See 1883 Sup. c. pp. 74, 75.

In the county of Douglas, on the fourth Tuesday of September, in each year. (1878, c. 64, § 2.)

In the county of Pope, on the second Tuesday of October, in each year. (1873, c. 78, § 1.)

In the county of Morrison, on the third Tuesday of October, in each year. (*Id.*)

In the county of Otter Tail, on the third Tuesday of November, and the third Tuesday of May, in each year. (1876, c. 65, § 1.)

In the county of Benton, on the second Tuesday of November, in each year. (1874, c. 96, § 1.)

In the county of Mille Lacs, on the second Tuesday of September, in each year. (1878, c. 64, § 1.)

In the county of Todd, on the last Tuesday of February, in each year. (1878, c. 27, § 1.)

*§ 63. In eighth district. That the general terms of district court in the eighth judicial district shall be held in the several counties in the said district at the times hereinafter prescribed, to wit:

In the county of Le Sueur, on the first Monday of March, and the first Monday in September, in each year. (1872, c. 49, § 1.)

In the county of Sibley, on the third Monday in March, and the third Monday in September, in each year. (*Id.*)

In the county of McLeod, on the second Monday of May, and the second Monday of November, in each year. (1875, c. 77, § 1.)

In the county of Scott, on the first Monday of June, and the first Monday of December, in each year. (1872, c. 49, § 1.)

In the county of Carver, on the first Monday in April, and the second Monday in October, in each year. (1878, c. 60, § 1.)

*§ 64. In ninth district. That the general terms of the district court of the ninth judicial district shall be held in the several counties in said district, at the times hereinafter prescribed, to wit:

In the county of Lyon, on the first Tuesday in December in each year. (1878, c. 61, § 1.)

In the county of Nicollet, on the fourth Tuesday in May, and on the second Tuesday in December, in each year. (1876, c. 62, § 2.)

In the county of Brown, on the first Tuesday in May, and on the third Tuesday in November, in each year. (*Id.*)

In the county of Redwood, on the third Tuesday in June, in each year. (*Id.*)

In the county of Renville, on the second Monday in November, in each year. (1878, c. 63, § 1.)

*§ 65. In tenth district. The general term of the district court of the tenth judicial district of the state shall be held annually at the times and places, to wit:

In the county of Freeborn, on the third Tuesday in June, and the first Tuesday in December.

In the county of Mower, on the third Tuesday in March, and the third Tuesday in September.

In the county of Fillmore, on the first Tuesday in June, and the second Tuesday in November.

In the county of Houston, on the first Tuesday in May, and the third Tuesday in October. (1876, c. 61, § 1.)

*§ 66. In eleventh district. That the general terms of the district court in and for the eleventh judicial district, shall be held in the counties of Clay and Crow Wing at the times hereinafter prescribed, to wit:

In the county of Clay, on the first Tuesday of April, and on the first Wednesday after the second Monday in November, in each year. (1877, c. 65, § 1.)

In the county of Crow Wing, on the fourth Tuesday of October in each year. (1877, c. 65, § 1.)

In the county of Carlton, on the first Tuesday of October in each year. (1875, c. 78, § 1.)

In the county of Becker, on the second Tuesday of October in each year. (*Id.*)

In the county of Saint Louis, on the third Tuesday of May, and on the fourth Tuesday of November, in each year. (*Id.*)

*§ 67. In twelfth district. General terms of the district court shall be held in the several counties composing the twelfth judicial district, as follows:

In the county of Meeker, on the second Tuesday of March, and on the second Tuesday of October, in each year. (1877, c. 66, § 1.)

In the county of Kandiyohi, on the fourth Tuesday of March, and on the fourth Tuesday of October, in each year. (*Id.*)

In the county of Switt, on the first Tuesday of October, and the third Tuesday of May, in each year. (1878, c. 65, § 1.)

In the county of Yellow Medicine, on the second Tuesday of September in each year. (1877, c. 66, § 1.)

In the county of Chippewa, on the first Tuesday of June in each year. (*Id.*)

In the county of Stevens, for the counties of Stevens, Big Stone and Traverse, on the third Tuesday of June in each year. (*Id.*)

In the county of Wilkin, on the second Tuesday of June in each year. (*Id.*)

In the county of Lac qui Parle, on the fourth Tuesday of September in each year. (1878, c. 62, § 2.)

§ 68. (SEC. 32.) Terms in counties where no general term is provided for. The judge of any judicial district may hold a term of court in any county in his district, for which general terms are not provided by law, whenever, in his discretion, any such term may be expedient and required to promote the ends of justice; and in such cases, he shall cause the same notice to be given, and shall possess the same powers, as are herein prescribed with reference to special terms; and whenever any such term or any special term is appointed to be held in any county by the district judge, he shall cause the order therefor, and the order directing the summoning of grand and petit jurors, if any, to be filed in the office of the clerk of the district court in such county, who shall file an attested copy thereof in the office of the county auditor, and deliver a like attested copy to the sheriff of such county.

§ 67, 69. See 1881 Sup't. p. 95. And 1883 Sup't. p. 75.

TITLE 4.

COUNTIES ATTACHED TO OTHERS FOR JUDICIAL PURPOSES.*

§ 69. (SEC. 33.) Enumeration of counties thus attached to others. For judicial purposes, to enforce civil rights and criminal justice, the county of Kanabec is attached to the county of Pine. (1871, c. 84, § 2.)

The county of Murray is attached to the county of Cottonwood. (1873, c. 85, § 1.)

The county of Pipestone is attached to the county of Rock. (1876, c. 83, § 1.)

The county of Grant is attached to the county of Douglas. (1868, c. 109, § 7.)

The county of Lincoln is attached to the county of Lyon. (1875, c. 71, § 1.)

The county of Beltrami is attached to the county of Becker. (*Sp. Laws 1871, c. 75, § 1.*)

* In the enumeration of the counties attached to others for judicial purposes, the editor has presented the result of the acts cited, instead of printing them at large to the confusion of the reader.

The county of Aitkin is attached to the county of Crow Wing. (1871, c. 96, § 4.)

The counties of Cass, Itasca and Wadena are attached to the county of Crow Wing. (*Sp. Laws 1871, c. 75, § 1; and Sp. Laws 1876, c. 208, § 2, as to Cass county alone.*)

The counties of Cook and Lake are attached to the county of St. Louis. (1874, c. 100, § 11; *Gen. St. c. 64, § 33, as to Lake county.*)

The counties of Kittson and Polk are attached to the county of Clay. (1876, c. 117, § 1.)

The counties of Big Stone and Traverse are attached to the county of Stevens. (1872, c. 89, § 1, *as to Traverse county*; 1873, c. 86, § 1, *as to Big Stone county.*)

And for such purposes, all the officers of the counties of Pine, Cottonwood, Rock, Douglas, Lyon, Becker, Crow Wing, St. Louis, Clay and Stevens, necessary to effect the same, shall have and exercise full jurisdiction, power and authority over, and act in and for, the counties respectively attached to said counties as aforesaid, as fully as if they were part of the same: *provided*, that in all cases where there are officers in and for any county which now is or hereafter may be attached to any other for judicial purposes, such officers shall have and exercise full power and authority over, and act in, such county so attached; and when any writ or process is to be served or executed in any county so attached, it may be issued to such county. (1873, c. 81, § 1.)

^{16 M. 518.}
*§ 70. Title of court where counties are attached. In all cases where one or more counties are attached to another for judicial purposes, the title of the district court for such counties shall hereafter be: The State of Minnesota, District Court for such judicial districts, Counties of — and —, (naming all the counties for which a common place for holding terms of the district court are by law provided;) and the clerk of the district court, sheriff and county attorney of the county in which such court is held, shall perform the duties in said court that would have devolved upon them respectively, had it been a court held exclusively for such county. (1867, c. 112, § 1.)

^{16 M. 282; 17 M. 76; 18 M. 90.}
*§ 71. Drawing of jurors in counties attached. On the first Monday of April, A. D. eighteen hundred and sixty-seven, and in January of each year thereafter, the board of county commissioners of each of the several counties of this state which are now by law attached to another county for judicial purposes, shall meet and select persons properly qualified for grand jurors and petit jurors; and the number of such persons so selected in each county, and all proceedings in the selection of the same, and in the making, signing, attesting and delivering of the lists thereof, and in the drawing and summoning of grand and petit jurors for each term of the district court for such counties, shall conform to the regulations now provided by law, except that the lists of persons suitable for grand and petit jurors selected in each county shall be delivered to the clerk of the district court of the county in which such court is held, and that the grand jurors shall be drawn by the said clerk from all the names returned by the several counties collectively as those of persons suitable for grand jurors, and that the petit jurors shall in like manner be drawn from the names of those in like manner returned as those of persons suitable for petit jurors; and except, also, that the sheriff of the county in which such court is held, or his deputy, shall officiate in the summoning of the jurors so drawn, in the same manner that he would be required to do, provided said court was held exclusively for his own county: *provided*, that in case any counties included within the provisions of section one of this act have no board of county commissioners, the board of county commissioners of the county in which such court is held shall select suitable persons from such counties for grand and petit jurors, and the same shall be

selected, and lists of them made, signed, attested and delivered, as provided above. (1867, c. 112, § 2.)

*§ 72. Pending proceedings not affected by change of title of court. No action or proceeding, civil or criminal, now pending or undetermined in any court the title of which is changed by the provisions of this act, shall be deemed to be affected or impaired in any manner by such change; but all subsequent proceedings therein shall be conducted and carried on in said court in the same manner as if such action or proceeding had been commenced in said court after the title thereof was changed; and such court shall also have the same civil and criminal jurisdiction over all the counties for which it is held that it would have had, provided its title had not been changed. (*Id.* § 3.)

*§ 73. Change of place of holding court from one county to another. The judge of any district court, the title of which is changed by the provisions of section one of this act, may, whenever he shall consider it to be in furtherance of justice, or for the public convenience, order that the place for holding such court may be changed from the county now designated by law as the one in which such court shall be holden, to one of the other counties embraced in the title of such court; and in such case all the papers, records, books and other property appertaining to the said court, shall be delivered to the clerk of the district court of the county in which, by the terms of said order, the said court is thereafter to be holden, upon the demand of the said clerk; and all general and special terms of said court shall thereafter be holden in the county designated in the said order for the holding of the same; and the jurisdiction of the court in any action or proceeding pending at the time of the making of said order, or over any crime, misdemeanor, or offence committed either before or after the making of such order, shall not in any way be affected thereby: *provided*, that the said judge may, at any time when he shall deem it expedient, again in like manner change the county in which said court shall be holden. (*Id.* § 4.)

*§ 74. Same—vacancy in office of clerk. In case there is no clerk of the district court in the county to which the holding of the court is changed, as provided for in the preceding section, there shall be deemed to be an original vacancy in the office of the clerk of the district court for such county, which vacancy shall be filled in the same manner, and subject to the same qualifications and regulations, as are now by law provided for filling vacancies in the office of clerk of the district court. (*Id.* § 5.)

*§ 75. Prisoners, to whom delivered. All persons for trial for any offence in any county within the jurisdiction of such court shall be delivered to the keeper of the common jail of the county in which said court is holden, for safe keeping, and to be produced when called for in the said court. (*Id.* § 6.)

*§ 76. Expenses of criminal actions, etc. The expenses of all criminal actions and proceedings shall be charged to and be defrayed by the county in which the crime is charged to have been committed. (*Id.* § 7.)

*§ 77. County commissioners of county where court is holden. In case any of the counties included in the provisions of this act shall have no board of county commissioners, then the board of county commissioners, and all the county officers, of the county in which such court is holden, shall act as the board of commissioners and county officers of such county, in the same manner, and returns from said counties shall be made to and through such officers in the same manner, as is now required to be done in fully organized counties: *provided*, that such board of commissioners shall not have power to levy any greater tax upon said counties than is sufficient to provide for the expenses thereof, including the laying out, opening and improving of roads and buildings, and repairing of bridges therein. (*Id.* § 8.)

See *ante*, c. 11, § 123.

*§ 78. Appointment of clerk of court, when county is detached. That whenever any

county that heretofore has been or hereafter may be attached to any other county for judicial purposes, heretofore has been or hereafter shall be detached from such county, and provision made for the holding of a general term of the district court in such detached county, it shall be the duty of the judge of the judicial district in which such detached county is situate, within thirty days after receiving notice of the passage of the act detaching such attached county, to appoint a clerk of the district court within and for such detached county, which clerk shall hold his office until his successor is elected and qualified. (1873, c. 82, § 1.)

*§ 79. **Filing of papers, etc., when county is attached to another.** In all cases where any county or counties are or hereafter may be attached to any other county for judicial purposes, all pleadings, process, writs, recognizances, bonds and other papers by law required to be filed in the office of the clerk of the district court, shall be filed in the office of the clerk of such court in the county to which such county or counties are attached for judicial purposes, (*Id.* § 2.)

*§ 80. **Duty of secretary of state when an attached county is detached.** It shall be the duty of the secretary of state, within ten days after the filing in his office of any act of the legislature detaching any county that heretofore has been or hereafter may be attached to any other county for judicial purposes, and providing for the holding of a general term of the district court in such detached county, to notify, in writing, the judge of the judicial district in which such detached county is situate, of the passage of such act. (*Id.* § 3.)

MUNICIPAL COURT OF ST. PAUL.

*§ 81. **Municipal court established.** There is hereby established in said city a court of record, to be called "municipal court," for the transaction of all business which may lawfully come before it; and the present city justice of said city shall be the judge of said municipal court until his successor is elected and qualified. (Sp. Laws 1875, c. 2, § 2.)

Sec 1871 Suppl. p. 16.
§ 82, § 82a.

*§ 82. **Clerk—seal—jurisdiction.** Said court shall have a clerk and a seal, and shall have, in addition to the jurisdiction and powers now conferred by said act upon the city justice of said city, cognizance of, and jurisdiction to hear, try and determine, civil actions or proceedings, where the amount in controversy does not exceed two hundred dollars, or where, in case the action is for the recovery of personal property, the value of such property does not exceed two hundred dollars: *provided*, however, that such cognizance and jurisdiction shall only extend to actions of the same nature and character, save as to amount, now or hereafter cognizable before a justice of the peace: *and provided further*, that where a counterclaim in excess of two hundred dollars over plaintiff's claim, or where any equitable defence, or ground for equitable relief, of a nature not cognizable before a justice of the peace, is interposed, or where it appears that the title to real estate is involved, the said court shall immediately cause an entry of the fact to be made of record, and cease all further proceedings in the cause, and certify and return to the court of common pleas of [the] said county, a transcript of all entries made in the record relating to the case, together with all process and other papers relating to the suit, in the same manner, and within the same time, as upon an appeal from justice court; and thereupon the said court of common pleas shall proceed in the cause to final judgment and execution, or transfer the same to the district court of said county, according to law, the same as if the said suit had been originally commenced in said court of common pleas, and the costs shall abide the event of the suit, except that the plaintiff shall advance the costs of the said municipal court in the suit: *provided*, however, that in actions for the recovery of money only, when the amount demanded in the plaintiff's complaint exceeds the sum of one hundred dollars and not more than two hundred dollars, the said mu-

municipal court shall have in such case concurrent jurisdiction with the court of common pleas of Ramsey county, and the summons in such action may be served and returned in the same manner that like process is by law now authorized to be served and returned, issued out of said court of common pleas, and with like force and effect; and the defendant in such cases shall be allowed twenty days from the time of the service of the summons upon him to make and file his answer in said court. (Sp. Laws, 1875, c. 2, § 3, as amended by Sp. Laws 1876, c. 211, § 1.)

*§ 83. **Election of judge—vacancy.** There shall be elected at the general city election, in the year one thousand eight hundred and seventy-six, in said city, and every fourth year thereafter, a suitable person, with the qualifications hereinafter mentioned, to the office of judge of said court, to be called "municipal judge," who shall hold his office for the term of four years, and until his successor is elected and qualified. In case of any vacancy in the office of municipal judge, occurring either before or after such election in the year one thousand eight hundred and seventy-six, the governor of the state of Minnesota shall appoint, to fill the vacancy, some person qualified as hereinafter mentioned, who shall hold his office until his successor is elected and qualified. At the next annual city election occurring more than thirty days after a vacancy in said office shall have happened, a judge of said court, qualified as aforesaid, shall be elected for the full term of four years, and until his successor is elected and qualified. In case the said vacancy shall have occurred within a period of thirty days before the general city election, then the said judge shall be elected at the general city election in the year following that in which the vacancy shall have happened, for the said full term, and until his successor is elected and qualified. (*Id.* § 4.)

*§ 84. **Qualifications of judge.** Every judge of said court shall be a resident of the city of Saint Paul, and a person duly admitted to practice as an attorney in the courts of this state; and, before entering upon the duties of his office, he shall take and subscribe an oath as prescribed by the General Statutes for judicial officers, which oath shall be filed in the office of the city clerk of said city. (*Id.* § 5.)

*§ 85. **Powers of judge.** The judge of said municipal court shall have the general powers of judges of courts of record, and may administer oaths, take and certify acknowledgments in all cases, and, as conservator of the peace, shall have all powers and authority which is by law vested in justices of the peace, or any other judicial officer. (*Id.* § 6.)

*§ 86. **Clerk—appointment and qualifications—deputy.** There shall be a clerk of said municipal court, who shall be appointed by the judge of said court; and the judge shall have power to remove said clerk at pleasure, or he may be removed by a two-thirds vote of the whole number of aldermen elected to the city council. Such clerk, before he enters upon the duties of his office, shall take and subscribe an oath to support the constitution of the United States and of the state of Minnesota, and to faithfully and honestly discharge and perform the duties of his office, and shall execute to the city of St. Paul a penal bond, in such sum and with such sureties as the council shall direct and approve, conditioned that he will account to and pay over to the treasurer of said city, on the first Tuesday of every month, all fines, penalties, fees, and other moneys belonging to or to go to said city, which may have come into his hands during the month next preceding, and that he will at all times pay over to all other persons, on demand, all moneys to which they may be entitled, which may have come into his hands in virtue or by reason of his office; such oath and bond shall be filed in the office of the city clerk of said city. And in case of sickness or pressure of business, such clerk shall have power to appoint, subject to the approval of the judge of said municipal court, a deputy clerk, with the like powers of the

Note to *§ 83. See 1881 Sup. L. R. 36.

clerk, but acting under the authority of said clerk; and the said deputy clerk shall take a similar oath, and execute a similar bond, to that of the chief clerk, which said oath and bond shall be filed in the office of the city clerk. Such deputy clerk shall receive such compensation for his services at a rate not exceeding fifty dollars per month, as may be previously fixed and determined by the common council of said city of Saint Paul. (Sp. Laws, 1875, c. 2, § 7. as amended by Sp. Laws, 1876, c. 211, § 2, and by Sp. Laws, 1877, c. 181, § 1.

*§ 87. **Powers of court—process—forms.** The municipal court shall have full power and authority to issue all process, civil and criminal, necessary or proper to carry into effect the jurisdiction given to it by law, and its judgments and other determinations. And it shall have and possess all the powers usually possessed by courts of record at common law, subject to the modifications of the statutes of this state applicable to courts of record; except that it shall not have jurisdiction to issue writs of habeas corpus, quo warranto, ne exeat, mandamus, prohibition or injunction. It shall also have all the powers and jurisdiction conferred on justices of the peace, by chapter eighty-four, General Statutes, and the proceedings shall be the same as therein provided, except that no appeal shall be allowed except to the supreme court. All process shall be tested in the name of the judge, and issued under the seal of the court, and signed by the clerk, who shall be styled, "clerk of the municipal court." And the forms of process may be prescribed by the court, by rule or otherwise, and any form so prescribed shall be valid and sufficient; and such forms may be changed by the court from time to time. In the absence of such prescribed forms, the forms of process in use, either in courts of record in this state, or by justices of the peace, may be changed and adapted to the style of the court, and used at the discretion of the court or clerk. Process may be directed, for service, to the chief of police or any police officer of the city of Saint Paul, or to the sheriff or any constable of said county, and may be served the same as a summons issued by a justice of the peace; and service by publication may be ordered and made in like manner. (*Id.* § 8.)

*§ 88. **Court, where held—duties of judge as criminal magistrate.** The municipal court shall be held in the city of Saint Paul, at some suitable place to be provided therefor by the city council. Its judge shall be chief magistrate of the city, and shall see that the criminal laws of the state, and the ordinances, laws, regulations and by-laws of said city, are observed and executed, and for that purpose shall open his court every morning, (Sundays and legal holidays excepted,) and proceed to hear and dispose of, in a summary manner, all cases which shall be brought before him by the police officers of the city, or otherwise, either with or without process, for violation of the criminal laws of this state, committed within the county of Ramsey, or of the ordinances, laws, regulations or by-laws of said city. The clerk of the court shall keep a record of all proceedings, and enter all orders, judgments and sentences, under the supervision of the judge, and issue commitments and executions, as well as all other process. (*Id.* § 9.)

*§ 89. **Powers and duties of clerk.** The clerk of the municipal court shall have the custody and care of all the books, papers and records of said court. He shall be present, by himself or deputy, at all trials, unless absent from sickness, or by consent of the judge; and in case of the absence of both clerk and deputy, the judge may appoint some person temporarily to the position. He may swear all witnesses and jurors, and administer all oaths and affidavits, and take acknowledgments; and when appointed by the court, he shall act as referee in any civil action pending in said court, without compensation. He shall keep minutes of all proceedings, and enter all judgments, and make up and keep the records of the court, under the direction of the judge, and, when the judge is not present, adjourn the court from day to day. He shall tax all costs and

disbursements allowed in any action, subject to review by the judge, and do all other things and acts necessary and proper to the enforcing and carrying out the jurisdiction of the municipal court. He shall receive all fines, penalties and fees of every kind accruing to the court, or any officer thereof, including police officers, and keep full, accurate and detailed accounts of the same; and shall, on the first Tuesday of every month, deliver over to the city treasurer of the city of St. Paul, all moneys so received, with detailed accounts thereof, and take his receipt therefor. (Sp. Laws 1875, c. 2, § 10, as amended by Sp. Laws 1876, c. 211, § 3.)

*§ 90. Terms of court—summons and service—return—pleadings, etc.—security for costs. The municipal court shall hold regular terms for the transaction of civil business, and trial of civil actions, on each Tuesday in every month, which terms shall continue from day to day, with such adjournments as the court shall deem proper, until the business of such term shall be finished; and all civil actions for the recovery of money only shall be commenced by summons, or writ of attachment, or other process, to be issued by the clerk; and all proceedings under the provisions of chapter 84 of General Statutes, and all civil process, shall be made returnable at 10 o'clock in the forenoon of one of said terms.

The form of the summons may be as follows:

State of Minnesota,	} ss.	City of St. Paul,
County of Ramsey.		Municipal Court.

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

You are hereby commanded to summons.....if.....shall be found within the county of Ramsey, to be and appear before the municipal court of the city of St. Paul, at a term thereof to be holden on....., theday of....., 18...., at the opening of the court, and answer to, whose complaint is on file in said court, in a civil action, and have you then and there this writ.

Witness the Honorable....., Municipal Judge, this.....day of.....A. D. 18....

.....
Clerk of the Municipal Court.

Or the summons may be in any other form which the court may by rule prescribe, and shall be served upon the defendant at least six days before the term at which the same is made returnable. No summons shall issue until the complaint in the action shall be made and filed with the clerk. The complaint may be presented in writing, to be filed, or may be made orally, and reduced to writing by the clerk. If the defendant fail to appear at the opening of the court on the day at which the summons is returnable, he shall be defaulted; if he so appear, he shall then, or at such time as the court may designate, answer the plaintiff's complaint; and if the answer contain a counterclaim, the plaintiff shall reply thereto forthwith, or at such time as the court may designate. The answer or reply may be presented in writing, or made orally and reduced to writing by the clerk; and each of such pleadings shall be verified by the party, or his agent or attorney, as in courts of justices of the peace. Either party may demur to any pleadings of his adversary, as in the district court; but all pleadings in this court shall be construed liberally, and merely technical objections are to be disregarded. And the court may, for good cause, in its discretion, and on such terms as it may deem equitable, open any default within thirty days after the party against whom it is entered shall have notice or knowledge of the same, and may allow any amendment of any pleading, at any time, and shall disregard variances between the allegations of a pleading and the evidence, unless satisfied that the adverse

MINNESOTA STATUTES 1878

party is prejudiced thereby. Either party shall be entitled to a continuance of any civil action, except in the case of proceedings under the provisions of chapter eighty-four, General Statutes of Minnesota, until the next term of the court following the term at which the summons shall be returnable: and further continuance may be granted upon sufficient cause shown, and on such terms as may be just. Said court shall also have authority to provide by rule that the plaintiff in any civil action shall, by bond, recognizance, or deposit of money with the clerk, give security for costs, in such sum as the court may designate by such rule, before any summons or other process shall issue in the action, or at any other time, in case of change of venue. The counterclaim in the defendant's answer may be such a one as could be interposed in the district court. (Sp. Laws 1875, c. 2, § 11, as amended by Sp. Laws 1876, c. 211, § 4.)

*§ 91. **Attachments.** Any creditor desiring to proceed by attachment in said court, shall, by himself, his agent or attorney, make and file his complaint in writing, together with an affidavit similar to the affidavit required by law in an application for a writ of attachment in justice's court, and also cause to be filed a bond, with sufficient surety, to be approved by the judge, and similar to the bond required on a like application in justice court, except that the limit of liability thereon shall be mentioned therein as not exceeding the sum of two hundred and fifty dollars. The writ of attachment may be in form as follows:

State of Minnesota, }
 County of Ramsey. } ss. City of St. Paul,
Municipal Court.
 The State of Minnesota to the chief of police or any police officer of the city of St. Paul, or to the sheriff or any constable of said county.

You are hereby commanded to attach the goods, chattels, moneys, effects and credits of....., or so much thereof as shall be sufficient to satisfy the sum of.....dollars, with interest and costs of suit, in whosoever hands or possession the same may be found, in said county of Ramsey, and so provide that the same may be subject to further proceedings as the law requires; and also to summon....., the said....., if to be found within said county, to be and appear before the municipal court of the city of St. Paul, at a term thereof to be holden on....., the..... day of....., A. D. 18...., at the opening of the court, and answer to..... whose complaint is on file in said court, in a civil action; and have you then and there this writ.

Witness the Honorable.....Municipal Judge, this.....day of.....A. D. 18....

.....
Clerk of the Municipal Court.

Or the writ may be in any other form that the court may by rule prescribe, and shall in all cases be returnable as an ordinary summons. All writs of attachment for any cause shall be made returnable at a regular term of said court, within not less than six nor more than twenty days from the service of such writ: *provided*, however, that in all cases where such writ shall be served on the defendant personally, judgment may be entered in said action, whether personal property be actually attached by virtue of said process or not; and attachments may be dissolved by defendant giving bonds as provided in like actions before justices of the peace, or the same may be vacated in the same manner as in the district court. (*Id.* § 12, as amended by Sp. Laws 1876, c. 211, § 5.)

*§ 92. **Replevin.** When the object of an action is to recover the possession of personal property, the plaintiff, his agent or attorney, shall make and file his complaint in writing, together with an affidavit similar to the affidavit required in a

justice court in a like action. The plaintiff, or some person on his behalf, shall execute a bond with sureties to be approved by the judge, conditioned similar to bonds in such actions in justice court, and file such bond; and an action may be maintained on such bond as upon similar bonds filed in like actions in justice courts. The clerk shall thereupon issue the writ, which may be in form as follows:

State of Minnesota, }
 County of Ramsey. } ss. City of St. Paul, }
 Municipal Court.

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

Whereas,.....complains that
has become possessed
 of and unjustly detains from the said.....
 the following described goods and chattels, that is to say (describing the articles with reasonable certainty, and stating their alleged value): Therefore you are hereby commanded that you cause the same goods and chattels to be replevied without delay, and delivered to said.....and to
 summon the said.....if to be found within said
 county, to be and appear before the municipal court of the city of St. Paul, at a term thereof to be holden on.....the.....day of
A. D. 18....at the opening of the court, and
 answer to.....whose complaint is on file in
 said court, in a civil action; and have you then and there this writ.

Witness the Honorable.....Municipal Judge,
 thisday of.....A. D. 18....

Clerk of the Municipal Court.

Or the writ may be in any other form that the court may by rule prescribe. The writ shall be served, and all proceedings thereunder had, in the same manner (except as to times and forms of pleading and trial) as upon similar proceedings in justice court. But the officer executing the writ shall retain the property taken under it in his own custody for three days before delivering the same to the plaintiff, and if, within that time, the defendant, or some one in his behalf, shall execute to the plaintiff a sufficient bond, with two or more sureties, to be approved by the judge, conditioned as in like cases in the district court, and file such bond, the clerk shall thereupon issue an order to the officer to redeliver such property to the defendant. (Sp. Laws 1875, c. 2, § 13.)

*§ 93. *Calendars.* The clerk of the court shall, prior to each term of the court, make up a calendar of the causes which will come up for trial, or for any disposition before the court at such term, adopting such arrangement as the judge may direct; and the court shall direct the order of the trial and other disposition of causes. (*Id.* § 14.)

*§ 94. *Selection and drawing of jurors.* The judge and clerk of said court, in connection with the mayor and city attorney, shall, immediately after the passage of this act, and in the month of January annually thereafter, select from the qualified electors of said city at large, two hundred persons properly qualified to serve as petit jurors, and shall make a list thereof, signed by them; and such list shall be filed by the clerk of said court; and the clerk shall prepare separate ballots containing the names of the persons so selected, and shall fold and deposit the same in a box kept for that purpose; and whenever a jury of six or twelve persons is demanded by either party to a civil action, the clerk shall draw from such box the number of persons so required, and issue a venire therefor, and talesmen may be selected as in justice courts; but no person shall be required to serve as a juror in said court oftener than once in every month. The jury shall be sworn as in the district court, and the func-

tions of judge and jury in the trial of causes shall be the same as in the district court, and exceptions to the rulings and decisions of the judge, and his charges and his refusals to charge, may be taken as upon trials in the district court; and said court is vested with all the powers which are possessed by district courts in this state; and all laws of a general nature apply to said municipal court so far as the same can be applicable and not inconsistent with the provisions of this act. Jurors in said municipal court shall be entitled to like fees in the trial of civil actions as jurors in justice's court; but the party demanding a jury in any civil action shall be required to advance the fees for such jury and the summoning thereof, before the venire shall issue. (Sp. Laws 1875, c. 2, § 15, as amended by Sp. Laws 1876, c. 211, § 6.)

*§ 95. *References—exceptions—new trials—appeals—costs and fees.* Title eighteen of chapter sixty-six of the General Statutes, relative to trial by referees, title nineteen of the same chapter, relative to exceptions, and title twenty of the same chapter, relative to new trials, shall apply to the said municipal court. Disbursements shall be allowed the prevailing party in said municipal court, and costs, to be taxed upon two days' notice in writing served upon the opposite party, giving therein the items asked to have allowed. Such costs [to] shall be as follows: to the plaintiff, upon a judgment in his favor, upon a trial upon the merits, where the amount thereof, or the value of personal property recovered, exclusive of disbursements, exceeds fifty dollars, an additional five dollars; to the defendant, when judgment is rendered in his favor on the merits, after trial of an issue of fact, five dollars; and if the amount of money or value of property claimed in the complaint exceeds fifty dollars, an additional five dollars. And all causes, after final judgment, but not before, may be removed from the said municipal court to the supreme court of the state of Minnesota, in the same manner, and upon like proceedings, and with like effect, as from the district courts, except where appeals are prohibited in the act of which this is amendatory: *and provided*, however, that the amount of the fees of the clerk of said municipal [court] in any civil case, including the entry of judgment and the writ of execution therein, shall not exceed two dollars; that the plaintiff, upon commencing an action in said municipal court, and the appellant or party procuring the transfer of any action from a justice's court, upon filing the transcript of appeal or other papers, shall pay to said clerk two dollars on account of said fees. (*Id.* § 16, as amended by Sp. Laws 1876, c. 211, § 7, and Sp. Laws 1877, c. 181, § 2.)

*§ 96. *Judgments—transcripts—executions.* No judgment rendered in said municipal court shall attach as a lien upon real estate until a transcript thereof shall be filed in the district court, as hereinafter provided; but writs of execution thereon in civil actions may issue against the goods and chattels of the judgment debtor, returnable within thirty days, as in justice courts. Every person in whose favor a judgment is rendered in said municipal court, for an amount exceeding ten dollars, besides costs, may, upon paying the fee therefor, and all unpaid fees payable to the clerk in such action, demand and shall receive from such clerk, a transcript of such judgment, duly certified, and file the same in the office of the clerk of the district court of the county of Ramsey, who shall file and docket the same as in the case of transcripts of judgments from courts of justices of the peace; and every such judgment shall become a lien upon the real estate of the debtor, from the filing of such transcript, to the same extent as a judgment of the said district court, and shall thereafter, so far as relates to the enforcement of the same, be exclusively under the control of said district court, and carried into execution by its process, as if rendered in said district court. The clerk of said municipal court shall not issue such transcript while a writ of execution is outstanding, in the hands of an officer or otherwise, and shall note, on the record of such judg-

ment, the fact that such transcript has been given, and shall not thereafter issue any writ of execution on the same judgment, but may at any time give to the same party, or his representatives, a new transcript of such judgment, in case of the loss of the transcript first given. (Sp. Laws, 1875, c. 2, § 17.)

*§ 97. **Garnishments.** Proceedings against garnishees may be instituted in the same manner as in justices' courts, but the summons may be served, either by any officer or any indifferent person, at any place within the state of Minnesota; and the summons may be made returnable at any term of said municipal court which may be named therein; and the notice required to be served on the defendant in the action may be signed, either by the clerk of said court, or the person who served the garnishee summons, or by the plaintiff or his attorney. The disclosure of the garnishee may be taken, and all further proceedings had, in the same manner as if the proceedings were in the district court. (*Id.* § 18.)

*§ 98. **Proceedings in criminal cases.** Complaints in criminal cases, where the defendant is not in custody, may be made to the court while in session, or to the judge or clerk when not in session, and shall be made in writing, or reduced to writing by the judge or clerk, and sworn to by the complainant, whether the offence charged be a violation of the criminal laws of the state, or of the ordinances, regulations or by-laws of said city; and the clerk, as well as the judge, is hereby made a conservator of the peace, and vested with the same authority, discretion and power to act on receiving complaints, and issuing the warrants of said court in criminal cases. And complaints, warrants, and other process in criminal cases, may follow substantially the same forms heretofore in use by the justices of the peace or the city justice, with such alterations as may seem convenient to adapt the same to the style of said municipal court, or may be in such other form as the court may prescribe, sanction or approve. In cases where alleged offenders shall be in custody, and brought before the court or the clerk without process, the clerk shall enter upon the records of the court a brief statement of the offence with which the defendant is charged, which shall stand in place of a complaint, unless the court shall direct a formal complaint to be made; the plea of the defendant shall be guilty or not guilty; in case of failure to plead, the clerk shall enter a plea of not guilty; and a former acquittal or conviction for the same offence may be proved under that plea as well as if formally pleaded. In the examination of offenders charged with indictable offences, the clerk shall keep such minutes of the examination as the court may direct, and shall make the proper return to the court before which the party charged with the offence may be bound to appear. (*Id.* § 19.)

*§ 99. **Salary of judge and clerk—powers and duties of police officers—service of process—fees.** The judge of said court shall receive a salary of twenty-five hundred dollars per year, and the clerk of said court a salary of fifteen hundred dollars per year, payable from the city treasury of said city of St. Paul, in monthly instalments; and neither the said judge, clerk, or deputy clerk, shall receive any other fee or compensation for his services; but in all proceedings had in said municipal court, like fees shall be charged and collected by the clerk, as costs, as are allowed by the law to justices of the peace, in proceedings and upon trials before them, or for similar services. It shall be the duty of the police officers of said city to serve all process issued by said court; and process shall not be given for service to any sheriff or constable, except in cases of necessity, where the services of a police officer cannot readily be obtained; but this clause is directory, and shall not affect the validity of services made by any other officer. Police officers of said city are hereby vested with all the powers of constables under the statutes of Minnesota, as well as at common law; and police officers, in making service of any process, or doing other duty in respect

to causes in said court, shall note and return to the court, for collection, such fees as are allowed to constables for the like services in justices' court; and all fees, whether so charged by the clerk or any police officer, whether due from the county on preliminary examination or otherwise, shall be collected by the clerk as costs, and by him be accounted for and paid over to the city treasurer of said city, as hereinbefore provided for; but no fees shall be charged against the city of St. Paul: *provided*, that in all actions in which the county of Ramsey is a party, and in all criminal actions in which said court has not final jurisdiction, the fees accruing to the clerk and court in such actions and preliminary examinations, after being taxed by the clerk, and approved by the judge, shall be certified to the county auditor of said county, who shall draw his warrant therefor upon the treasurer of said county in favor of said clerk; and the county treasurer shall pay the same out of any money in the treasury not otherwise appropriated; and the amount so paid shall be by said clerk paid over to the treasurer of the city, on the first Tuesday in the month after the same was received by him. (Sp. Laws, 1875, c. 2, § 20, as amended by Sp. Laws 1876, c. 211, § 8.)

*§ 100. *Police officers in attendance on court.* It shall be the duty of the mayor and chief of police of said city to see that a sufficient number of police officers are always in attendance upon said court, and in readiness to obey its mandates, and serve its process, and preserve order in the proceedings. Police officers of said city shall hereafter receive for their services no other compensation than the salary paid them by said city, except as otherwise provided in the act to which this is amendatory; and if any fee shall be paid to any police officer for any service, he shall forthwith pay the same over to the clerk of said municipal court, for the use of said city, and a failure to do so shall be a misdemeanor, punishable by a fine not exceeding one hundred dollars, or by imprisonment not exceeding thirty days. The mayor of said city shall have the power, in his discretion, to appoint one or two persons, approved by the municipal judge, as policemen for special attendance and duty in said court, irrespective of the general or special rules, or legal regulations and enactments, relative to the qualifications of policemen; but such persons shall receive the same, but no greater compensation, unless the council direct greater compensation, as ordinary police; and all policemen attending said court may be required to give bonds to said city, in such sum as the council shall direct, for the performance of their duties, for the use of all persons interested: *provided*, however, that the above shall not affect the powers and duties of the general police in said court. (*Id.* § 21.)

*§ 101. *Special judges.* There shall be two special judges of said municipal court, whose manner of election, term of office, powers and duties, shall be the same as those of municipal judge, except as otherwise provided in this act; and their successors shall be elected, and vacancies in their offices filled, in like manner. The governor shall immediately appoint two persons duly qualified, to fill the vacancies in the offices of the said two special judges, until their successors are elected at the next general city election, and qualified. In case of a press of business in said court, or of the absence or sickness of the municipal judge, or when said judge is a party or interested in any cause, or otherwise disqualified from acting, the said judge, or, in his absence or sickness, the mayor of said city, shall notify alternately one of the special judges to act as judge of said court during the inability or disqualification of said municipal judge; and such special judge so acting shall receive compensation from the city, at the rate of eight dollars per day; said special judges shall not be disqualified from acting as attorney in said court, in any cause when they are not a party or in interest; the special judges shall act alternately, and no special judge shall act, at any one time, for more than one term of the court, unless it be to

conclude a case already commenced before him, or unless in case of sickness or disability of the other special judge. (Sp. Laws 1875 c. 2 § 22, as amended by Sp. Laws 1876, c. 211, § 9.)

*§ 102. **Prosecuting officers.** The city attorney of the city of St. Paul shall have charge of the prosecution of all criminal cases before said municipal court, not indictable; and the county attorney of the county of Ramsey shall act in the prosecution of offenders charged with indictable offences, when so required by law to prosecute before justices of the peace. (*Id.* § 23.)

*§ 103. **Clerk to procure supplies, etc.** The clerk of the municipal court shall, under the direction of the judge, and with the consent of the city council of said city, (unless otherwise provided,) from time to time procure and furnish all the necessary blanks, stationery, record-books, court-room, jury-room and office furniture, lights and fuel, for the use of the court and officers thereof, at the expense of the said city. (*Id.* § 24.)

*§ 104. **Powers of justices of peace suspended.** All causes and proceedings pending before justices of the peace within the said city, at the time of the passage of this act, shall forthwith by said justices be transferred to said municipal court, with all papers and records concerning the same; and said municipal court shall take cognizance of such causes and proceedings; and proceed therein as if the same were originally commenced in said municipal court. And the dockets, records, files and papers in the custody of any and all justices of the peace of said city, shall at once be transferred and turned over to the said municipal court, which shall have full jurisdiction to finish and complete all proceedings pending before any justice of the peace, and to enforce, by execution or otherwise, all judgments theretofore rendered by justices of the peace within the present city of St. Paul; and such judgments shall stand on the same footing as judgments of said municipal court. And from and after the passage of this act, no justice of the peace within the city of Saint Paul shall issue any process, or take cognizance of any action or proceeding, civil or criminal; but the jurisdiction of said municipal court shall, within said city, be exclusive in all causes heretofore cognizable before justices of the peace, except that this clause shall not affect the jurisdiction of any court of record having general jurisdiction, such as is conferred upon the district court. (*Id.* § 25.)

*§ 105. **Justices of peace in St. Paul.** That on the day of the next general city election, and every two years thereafter, in addition to the municipal officers then to be elected, the qualified electors of said city shall elect by ballot, as provided in section five of chapter two of the act relating to said city of Saint Paul, approved March 5th, 1874, two justices of the peace for said city of Saint Paul, one of whom shall reside and hold his office east of Wabasha street; the other west of Wabasha street; and that the justices of the peace so elected at said election, shall hold their respective offices for two years, and until their successors are elected and qualified, and shall severally give bond and qualify as is now provided by chapter 65 of the General Statutes, relating to justices of the peace; and that the justices so to be elected shall supersede all other justices of the peace within said city of Saint Paul, and shall severally have and possess all the jurisdiction and powers, and discharge all the duties required by said General Statutes, and the several acts amendatory thereof, save and except as otherwise specially provided in this act: *and provided further*, that said justices of the peace shall not have or exercise any criminal jurisdiction, or in any action of forcible entry and detainer whatever. That the fees of such justices of the peace shall not exceed in any one action or garnishee or proceeding the sum of two dollars, which sum shall include the cost of the issuance of one execution. That section twenty-six of said act hereby amended is repealed: *provided*, however, that all justices of the peace who were in office at the time of the passage of the act to which this is amendatory, and whose terms have since expired, shall forthwith transfer and

turn over to the municipal court all dockets, records, files and papers in their custody, and pertaining to the office of justice of the peace; and the said municipal court shall have full power to enforce, by execution or otherwise, all judgments rendered by said justices: *and provided further*, that the justices of the peace now in office in said city shall, on the expiration of their term of office, transfer and turn over to either of the justices of the peace elected under this act, all their said dockets, records, papers and files pertaining to their said office of justice of the peace; and the said justice to whom said dockets, records, files and papers may be transferred, shall have full jurisdiction to finish and complete all proceedings unfinished and pending at the time of the transfer. (Sp. Laws, 1875, c. 2, § 26, as amended by Sp. Laws, 1876, c. 211, § 10.)

*§ 106. **Transfers from justices of peace.** Where any transfer of any action before a justice of the peace now existing in said city, is made under section eighteen of chapter sixty-five of the General Statutes, such transfer, with all papers appertaining to the action, shall be made to the said municipal court, and not to another justice; and the said municipal court shall thereupon proceed to hear and determine the said action, and act thereupon in the same manner as if the same had been originally commenced therein. (*Id.* § 27.)

*§ 107. **Appeals from justices of peace.** All appeals hereafter taken from the judgment of any justice of the peace now existing in said city, shall be taken to the said municipal court, and not to the district court or court of common pleas; and title eleven of chapter sixty-five, as amended, shall, save as to the court to which the appeal is to be taken, apply to the said appeal, and, as far as applicable, to the said municipal court, in becoming possessed of any proceeding upon said appeal, and in all other respects. (*Id.* § 28.)

*§ 108. **Unlawful detainers.** No justice of the peace in said city shall hereafter issue any summons under chapter eighty-four of the General Statutes. (*Id.* § 29.)

MUNICIPAL COURT OF MINNEAPOLIS.*

*§ 109. **Jurisdiction—clerk—seal.** There shall be established in the city of Minneapolis, in the county of Hennepin, a municipal court, for the transaction of all business which may lawfully come before it. Said court shall be a court of record, and shall have a clerk and a seal, and shall have jurisdiction to hear, try and determine civil actions at law where the amount in controversy does not exceed five hundred dollars, excepting causes involving title to real estate. It shall also have exclusive jurisdiction to hear all complaints, and conduct all examinations and trials, in criminal cases arising or triable within the city of Minneapolis, heretofore cognizable before a justice of the peace. It shall not have jurisdiction of actions for divorce, nor of any action where the relief asked for in the complaint is purely equitable in its nature. (Sp. Laws 1874, c. 141, § 1, as amended by Sp. Laws 1878, c. 65, § 1.)

*§ 110. **Election of judge—vacancies.** The qualified electors of the city of Minneapolis shall, at the general city election to be holden on the first Tuesday in April, in the year eighteen hundred and seventy-four, and on the day of the general city election every third year thereafter, elect a suitable person, with the qualifications hereinafter mentioned, to the office of judge of said municipal court, to be called "municipal judge," who shall hold his office for the term of three years, and until his successor shall be elected and qualified. In case of any vacancy in the office of municipal judge, the governor of the state of Minnesota shall appoint some qualified person to said office until the next annual city election, when a judge shall be elected for a full term of three years. (*Id.* § 2.)

*An act to establish a municipal court in the city of Minneapolis. Approved February 13, 1874. (Sp. Laws 1874, c. 141.)

MINNESOTA STATUTES 1878

64.]

MUNICIPAL COURT OF MINNEAPOLIS.

657

*§ 111. **Qualifications of judge—special judge.** The judge of the municipal court shall be a resident of the city of Minneapolis, a person learned in the law, and duly admitted to practice as an attorney in the courts of this state. Before entering upon the duties of his office, he shall take and subscribe an oath as prescribed in the General Statutes for judicial officers, which oath shall be filed in the office of the city clerk of said city. He shall have the general powers of the judges of courts of record, and may administer oaths, take and certify acknowledgments in all cases, and, as a conservator of the peace, shall have all power and authority which is by law vested in justices of the peace or any other judicial officer. There shall be one special judge of said municipal court, whose manner of election, term of office, powers, duties and qualifications shall be the same as those of municipal judges, except as otherwise provided in this act, and his successor shall be elected, and vacancies in his office filled, in like manner. The governor shall immediately appoint some person duly qualified to fill the vacancies in the office of the said special judge, until his successor be elected at the next general city election, and qualified. In case of a press of business in said court, at the request of the municipal judge, or in case of the absence or sickness of the municipal judge, the said special judge shall act as judge of said court; and when the special judge so acts at the request of the municipal judge, the said special judge and the municipal judge may each have and exercise the powers of the said court. The said special judge shall not act on the trial or examination of any case except as above provided; and such special judge, acting as judge of said court, shall receive compensation from the city at the rate of eight dollars per day. This section shall not incapacitate such special judge from acting as attorney in any case in said court; but when such judge is acting as judge of said court, he shall take no action in such case, save to adjourn the same. (Sp. Laws 1874, c. 141, § 3, as amended by Sp. Laws 1877, c. 178, § 1, and by Sp. Laws 1878, c. 65, § 2.)

*§ 112. **Clerk—appointment and qualifications.** There shall be a clerk of said municipal court, who shall be appointed by the judge of said court, with the advice and consent of the city council of the city of Minneapolis; and the judge shall have power to remove said clerk at pleasure, or he may be removed by a two-thirds vote of the whole number of aldermen elected to the city council. Such clerk, before he enters upon the duties of his office, shall take and subscribe an oath to support the constitution of the United States and of the state of Minnesota, and to faithfully and honestly discharge and perform the duties of his office; and shall execute to the city of Minneapolis a penal bond, in such sum and with such sureties as the council shall direct and approve, conditioned that he will account to and pay over to the treasurer of said city, on the first Monday of every month, all fines, penalties, fees and other moneys belonging to or to go to said city, which may have come into his hands during the month next preceding, and that he will at all times pay over to all other persons, on demand, all moneys to which they may be entitled, which may have come into his hands in virtue or by reason of his office. Such oath and bond shall be filed in the office of the city clerk of said city. (*Id.* § 4.)

*§ 113. **Powers of court—process—forms.** The municipal court shall have full power and authority to issue all process, civil and criminal, necessary or proper to carry into effect the jurisdiction given to it by law, and its judgments and other determinations. And it shall have and possess all the powers usually possessed by courts of record at common law, subject to modifications of the statutes of this state applicable to courts of record, except that it shall not have jurisdiction to issue writs of habeas corpus, quo warranto, ne exeat, mandamus, prohibition nor injunction. All process shall be tested in the name of the judge,

and issued under the seal of the court, and signed by the clerk, who shall be styled "clerk of the municipal court." And the forms of process may be prescribed by the court by rule or otherwise, and any form so prescribed shall be valid and sufficient, and such forms may be changed by the court from time to time. In the absence of such prescribed forms, the forms of process in use, either in courts of record in this state, or by justices of the peace, may be changed and adapted to the style of the court, and used at the discretion of the court or clerk. Process may be directed for service to any police officer of the city of Minneapolis, or to the sheriff, or any constable of said county. (Sp. Laws 1874, c. 141, § 5.)

*§ 114. **Place of holding court—judge as criminal magistrate.** The municipal court shall be held in the city of Minneapolis, at some suitable place to be provided therefor by the city council. Its judge shall be the chief magistrate of the city, and shall see that the criminal laws of the state, and the ordinances, laws, regulations and by-laws of said city, are observed and executed, and for that purpose shall open his court every morning, (Sundays and legal holidays excepted,) and proceed to hear and dispose of, in a summary manner, all cases which shall be brought before him, by the police officers of the city or otherwise, either with or without process, for violations of the criminal laws of this state, committed within the county of Hennepin, or of the ordinances, laws, regulations or by-laws of said city. The clerk of the court shall keep a record of all proceedings, and enter all orders, judgments and sentences, under the supervision of the judge, and issue commitments and executions as well as all other process. (*Id.* § 6.)

*§ 115. **Powers and duties of clerk—deputy.** The clerk of the municipal court shall have the custody and care of all the books, papers and records of said court. He shall be present at all trials, unless absent from sickness, or with the consent of the judge; and in case of his absence, the judge may appoint some person temporarily in his place. He may swear all witnesses and jurors, and administer all oaths and affirmations, and take acknowledgments. He shall keep minutes of all proceedings, and enter all judgments, and make up and keep the records of the court, under the direction of the judge. He shall tax all costs and disbursements allowed in any action, subject to review by the judge, and do all other things and acts necessary or proper to the enforcing and carrying out of the jurisdiction of the municipal court. He shall receive all fines, penalties and fees of every kind accruing to the court, or any officer thereof, including police officers, and keep full, accurate and detailed accounts of the same; and shall, on the first Monday of every month, deliver over to the city treasurer of the city of Minneapolis all moneys so received, with detailed accounts thereof, and take his receipt therefor. The clerk of said municipal court may, when authorized so to do by the city council of the city of Minneapolis, if in their discretion they deem the appointment necessary, with the sanction of the judge of said court, appoint a deputy clerk of said municipal court, for whose acts the said clerk of said court shall be responsible; and said deputy shall be appointed under the hand of said clerk and seal of said court, with the sanction of the judge, endorsed on the back of such appointment; and before any deputy clerk of said court shall enter upon the duties of his office, he shall take and subscribe the same oath prescribed and required to be taken by the clerk of said court, and execute a bond to be approved by said clerk, which oath, together with the appointment of such deputy clerk, and such bond, shall be filed in the office of the city clerk of said city of Minneapolis; and the clerk of said court, or the judge thereof, may at any time remove any deputy appointed under the provisions of this act. The deputy clerk appointed under the provisions of this act, shall receive a salary of six hundred dollars per year, payable from the city treasury of said city of Minne-

MINNESOTA STATUTES 1878

apolis, in quarterly instalments. The deputy appointed under the provisions of this act may administer oaths, take acknowledgments, and perform all the duties pertaining to the office of clerk of said municipal court. (Sp. Laws 1874, c. 141, § 7, as amended by Sp. Laws 1875, c. 4, § 1.)

*§ 116. Terms—summons and service—return—pleadings, etc.—costs and security therefor. The municipal court shall hold regular terms for the trial of civil actions, on the first and third Tuesday of every month, which terms shall continue from day to day, with such adjournments as to the court may seem proper, until the business of each term shall be finished; and the court may by rule or order appoint such terms to be held oftener, or upon other days, than the days above mentioned. All civil actions for the recovery of money only shall be commenced by summons to be issued by the clerk.

The form of the summons may be as follows:

State of Minnesota, } County of Hennepin, } ss.	City of Minneapolis, Municipal Court.
--	--

State of Minnesota to any police officer of the city of Minneapolis, or to the sheriff or any constable of said county:

You are hereby commanded to summon.....if..... shall be found within the county of Hennepin, to be and appear before the municipal court of the city of Minneapolis, at a term thereof to be holden onthe day of, A. D. 18...., at the opening of the court, and answer to....., whose complaint is on file in said court; and have you then and there this writ. The amount claimed by the plaintiff in said complaint is the sum of dollars and cents, and interest thereon from and since theday of, A. D. 18...., at the rate of per cent. per annum.

[L. s.] Witness the Honorable, Municipal Judge, this..... day of, A. D. 18....

.....
Clerk of Municipal Court.

Or the summons may be in any other form which the court may by rule prescribe, and shall be served upon the defendant at least six days before the term at which the same is made returnable. The manner of service shall be the same as that required by law for the service of summons in courts of justices of the peace in this state; and a summons issued out of said municipal court may be served by publication in like manner as provided in section twelve and thirteen of title two of chapter sixty-five of the General Statutes of 1866 of this state, relating to service of summons by publication. No summons shall issue until the complaint in the action shall be filed with the clerk.

The complaint may be presented in writing, to be filed, or may be made orally, and reduced to writing by the clerk. If the defendant fail to appear at the opening of the court on the day at which the summons is returnable, he shall be defaulted. If he so appear, he shall then, or at such time as the court may designate, answer the plaintiff's complaint; and if the answer contain a counterclaim, the plaintiff shall reply thereto forthwith, or at such time as the court may designate. The answer or reply shall be reduced to writing, and filed with the clerk, and each of such pleadings shall be verified by the party or his agent or attorney, either as in courts of justices of the peace, or in the district courts of the state.

Either party may demur to any pleading of his adversary, as in the district court; but all pleadings of this court shall be construed liberally, and merely technical objections shall be disregarded. And the court may, for good cause, in its discretion and on such terms as it may deem equitable, open any default.

MINNESOTA STATUTES 1878

at the same term at which it occurred, or allow any amendment of any pleading at any time, and shall disregard variance between the allegations of a pleading and the evidence, unless satisfied that the adverse party is prejudiced thereby. Either party shall be entitled to a continuance of any civil action (except actions for forcible entry and unlawful detainer) until the next term of the court following the term at which the summons shall be made returnable; and further continuances may be granted, upon sufficient cause shown, and on such terms as may be just. Said court shall also have authority to provide by rule that the plaintiff in any civil action shall, by bond, recognizance or deposit of money with the clerk, give security for costs, in such sum as the court may designate by such rule, before any summons or other process shall issue in the action.

Costs are allowed to the prevailing party in actions commenced in said municipal court, as follows:

To the plaintiff, upon a judgment in his favor of one hundred dollars or more, or in actions of replevin when the value of the property is one hundred dollars or more, when no issue of facts or law is joined, five dollars; when an issue is joined, ten dollars.

To the defendant, when the amount claimed in the complaint is one hundred dollars or more, upon discontinuance or dismissal, five dollars; when judgment is rendered in his favor on the merits, ten dollars.

Costs and disbursements shall be taxed and allowed in the first instance by the clerk, upon two days' notice by either party, and inserted in the entry of judgment. The disbursements shall be stated in detail, and verified by affidavit, which shall be filed. The party objecting to any item shall specify in writing the ground of objection, and same, in case of appeal, shall be certified to the court by the clerk; and the appeal shall be heard and determined upon the objections so certified, and none other. (Sp. Laws 1874, c. 141, § 8, as amended by Sp. Laws 1875, c. 4, § 2, and by Sp. Laws 1878, c. 65, § 3.)

*§ 117. **Attachment.** Any creditor desiring to proceed by attachment in said court, may, at the time of commencing the action, or thereafter and while said action is still pending, by himself, his agent or attorney, make and file with the clerk an affidavit similar to the affidavit required by law in an application for a writ of attachment in justices' courts, and also cause to be filed a bond, with sufficient surety, to be approved by the judge, and similar to the bond required on a like application in justice's court, except that the limit of liability thereon shall be mentioned therein as not exceeding the sum of two hundred and fifty dollars. The writ of attachment may be in form as follows:

State of Minnesota,	}	City of Minneapolis,
County of Hennepin.	} ss.	Municipal Court.

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

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

Witness the Honorable, judge of said court, this..... day of, A, D. 187..

.....
Clerk.

Or the writ may be in any other form that the court may by rule prescribe. In all other respects the service of the writ and other proceedings thereon

shall be similar as near as may be to the service of such writ and proceedings in justices' courts. (Sp. Laws 1874, c. 141, § 9, as amended by Sp. Laws 1878, c. 65, § 4.)

*§ 118. **Replevin.** When the object of an action is to recover the possession of personal property, the plaintiff, his agent or attorney, shall make and file his complaint in writing, together with an affidavit, similar to the affidavit required in a justice's court in a like action. The plaintiff, or some person on his behalf, shall execute a bond, with sureties, to be approved by the judge, conditioned similar to bonds in such actions in justices' courts, and file such bond. And an action may be maintained on such bond, as upon similar bonds filed in like actions in justices' courts. The clerk shall thereupon issue the writ, which may be in form as follows:

State of Minnesota, }
 County of Hennepin, } ss. City of Minneapolis,
 Municipal Court.

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

Whereas, complains that.....
 has become possessed of and unjustly detains from.....
 the said the following described goods and chattels, that
 is to say: [Particularly describing the articles and the value.] Therefore, you
 are hereby commanded that you cause the same goods and chattels to be replevied, without delay, and delivered to said....., and to
 summon the said....., if to be found within said county,
 to be and appear before the municipal court of the city of Minneapolis, at a
 term thereof to be holden on....., the..... day of.....
 A. D. 18...., at the opening of the court, and answer to.....
 whose complaint is on file in said court, in a civil action; and have you then
 and there this writ.

Witness the Honorable.....Municipal Judge, this.....
 day of....., A. D. 18....

[L. S.]

.....
 Clerk of the Municipal Court.

Or the writ may be in any other form that the court may, by rule, prescribe. The writ shall be served, and all proceedings thereunder had, in the same manner (except as to times and forms of pleading and trial) as upon similar proceedings in justice's court. But the officer executing the writ shall retain the property taken under it in his own custody for three days before delivering the same to the plaintiff; and if, within that time, the defendant, or some one on his behalf, shall execute to the plaintiff a sufficient bond, with two or more sureties, to be approved by the judge, conditioned as in like cases in the district court, and file such bond, the clerk shall thereupon issue an order to the officer to redeliver such property to the defendant. (*Id.* § 10.)

*§ 119. **Calendar.** The clerk of the court shall, prior to each term of the court, make up a calendar of the causes which will come up for trial, or for any disposition, before the court at such term, adopting such arrangement as the judge may direct; and the court shall direct the order of the trial, and other disposition of causes. (*Id.* § 11.)

*§ 120. **Jury trial—drawing of jurors—laws applicable to court.** Trial by jury in the municipal court shall in all respects be conducted as in the district courts of said state; and all laws of a general nature applicable to jury trials in said district courts shall apply to said municipal court. Jurors for said municipal court shall be provided and drawn, however, in the following manner, to wit: The mayor or president of the city council of the city of Minneapolis, the city clerk, and the presiding judge of said municipal court, shall, on the second Monday of February, May, August and November in each year, at the

office of the city clerk of said city, meet, and, from the legal voters of said city, select and designate sixty-four legal voters of said city as the jurors of said municipal court, to serve therein, when required and drawn, during the succeeding three months, and until their successors are elected and certified; and shall thereupon certify said names, so elected, to the clerk of said municipal court, who shall thereupon write said names upon separate ballots, and place the same in a wheel or box, and, whenever a jury is required in said court, shall thereupon by lot draw twenty ballots, the persons named upon which shall be summoned to attend the trial of the cause wherein they were drawn; and the first twelve so drawn shall constitute the jury, unless some of said jurors shall be challenged or excused, in which case the clerk shall consecutively call the remaining six jurors so drawn, until the panel so drawn shall be exhausted. No talesman shall be summoned or sit in any cause in said court. And the first and second series of eighteen ballots each so drawn shall not be returned to said box or wheel until the third series shall have been drawn from said box. The persons selected to serve as aforesaid shall not again be eligible during the year in which they may have been elected.

Where no provision is otherwise made in this act, said municipal court is vested with all the powers which are possessed by the district courts of the state, and all laws of a general nature apply to said municipal court, so far as the same can be made applicable, and not inconsistent with the provisions of this act. Jurors in said municipal court shall be entitled to like fees in the trial of civil actions as jurors in justices' courts, to be collected and paid in the same manner; but the party demanding a jury in any civil action shall be required to advance the jury fee before the commencement of the trial. (Sp. Laws 1874, c. 141, § 12, as amended by Sp. Laws 1877, c. 178, § 2, and by Sp. Laws 1878, c. 65, § 5.)

*§ 121. *Referees—exceptions—new trials—appeals—removals from justices of the peace, etc.* Title eighteen of chapter sixty-six of the General Statutes, relative to trial by referees, title nineteen of the same chapter, relative to exceptions, and title twenty, relative to new trials, shall apply to said municipal court; and section four of chapter twenty-seven of the General Statutes, relating to reporter of the supreme court, and the distribution of the supreme court reports, shall apply to the judge of said municipal court; and all causes may be removed from the said municipal court to the supreme court of the state of Minnesota, in the same manner, and upon like proceedings, and with like effect, as from the district court; and said municipal court shall have jurisdiction of actions of forcible entries and unlawful detainers, and may fix return days for such actions, other than the regular term days of said court; and chapter eighty-four of the General Statutes, relative to forcible entries and unlawful detainers, shall apply to said municipal court. (*Id.* § 13, as amended by Sp. Laws 1875, c. 4, § 3.)

*§ 122. *Judgments—transcripts—executions.* No judgment rendered in said municipal court shall attach as a lien upon real estate until a transcript thereof shall be filed in the district court, as hereinafter provided. But writs of execution thereon, in civil actions, may issue against the goods and chattels of the judgment debtor, returnable within thirty days, as in justices' courts. Every person in whose favor a judgment is rendered in said municipal court, for an amount exceeding ten dollars besides costs, may, upon paying the fee therefor, and all unpaid fees payable to the clerk in such action, demand and shall receive from such clerk a transcript of such judgment, duly certified, and may file the same in the office of the clerk of the district court of said Hennepin county, who shall file and docket the same, as in the case of transcripts of judgments from courts of justices of the peace. And every such judgment shall become a lien on the real estate of the debtor from the filing of such

transcript, to the same extent as a judgment of the said district court, and shall thereafter be exclusively under the control of said district court, and carried into execution by its process, as if rendered in said district court. The clerk of said municipal court shall not issue such transcript while a writ of execution is outstanding in the hands of an officer or otherwise, and shall note on the record of such judgment the fact that such transcript has been given; and shall not thereafter issue any writ of execution on the same judgment, but may at any time give to the same party, or his representatives, a new transcript of such judgment, in case of the loss of the transcript first given. (Sp. Laws, 1874, c. 141, § 14.)

*§ 123. **Garnishments.** Proceedings against garnishees may be instituted in the same manner as in justices' courts; but the summons may be served either by any officer, or any indifferent person, at any place within the state of Minnesota; and the summons may be made returnable at any term of said municipal court which may be named therein; and the notice required to be served on the defendant in the action may be signed, either by the clerk of said court, or the person who served the garnishee summons, or by the plaintiff or his attorney. The disclosure of the garnishee may be taken, [and] all further proceedings had, in the same manner as if the proceeding were in the district court. (*Id.* § 15.)

*§ 124. **Proceedings in criminal cases.** Complaints in criminal cases, where the defendant is not in custody, may be made to the court when in session, or to the judge or clerk, when not in session, and shall be made in writing, or reduced to writing by the judge or clerk, and sworn to by the complainant, whether the offence charged be a violation of the criminal laws of the state, or of the ordinances, regulations or by-laws of said city. And the clerk, as well as the judge, is hereby made a conservator of the peace, and vested with the same authority, discretion and power to act in receiving complaints, and issuing the warrants of said court in criminal cases. And complaints, warrants, and all other process in criminal cases, may follow substantially the same forms heretofore in use by justices of the peace, with such alterations as may seem convenient to adapt the same to the style of said municipal court; or may be in such other form as the court may prescribe, sanction or approve. In cases where alleged offenders shall be in custody, and brought before the court or the clerk without process, the clerk shall enter upon the records of the court a brief statement of the offence with which the defendant is charged, which shall stand in place of a complaint, unless the court shall direct a formal complaint to be made. The plea of the defendant shall be guilty or not guilty; in case of failure to plead, the clerk shall enter a plea of not guilty, and a former acquittal or conviction for the same offence may be proved under that plea as well as if formally pleaded. In the examination of offenders charged with indictable offences, the clerk shall keep such minutes of the examination as the court may direct, and shall make the proper return to the court before which the party charged with the offence may be bound to appear. (*Id.* § 16.)

*§ 125. **Salary of judge and clerk—service of process—fees.** The judge of said court shall receive a salary of twenty-five hundred dollars per year, and the clerk of said court a salary of fifteen hundred dollars per year, payable from the city treasury of said city of Minneapolis, in quarterly instalments; and neither the said judge nor clerk shall receive any other fee or compensation for his services. But in all proceedings had in said municipal court, like fees shall be charged and collected by the clerk, as costs, as are allowed by law to justices of the peace, in proceedings and upon trials before them, or for similar services. It shall be the duty of the police officers of said city to serve all process issued by said court; and process shall not be given for service to any sheriff or constable, except in cases of necessity where the services of a police officer cannot

readily be obtained; but this clause is directory, and shall not affect the validity of services made by any officer. Police officers, in making service of any process, or doing other duty in respect to causes in said court, shall note, and return to the court for collection, such fees for such services as are allowed to constables for the like services in justice's court. And all fees, whether so charged by the clerk or by any police officer, shall be collected by the clerk as costs, and by him be accounted for and paid over to the city treasurer of said city, as hereinbefore provided for. But no fees shall be charged against either the city, county or state. (Sp. Laws, 1874, c. 141, § 17.)

*§ 126. **Police officers in attendance on court.** It shall be the duty of the mayor and chief of police of said city to see that a sufficient number of police officers are always in attendance upon said court, and in readiness to obey its mandates, and serve its process, and preserve order in its proceedings. Police officers of said city shall hereafter receive for their services no other compensation than the salary paid them by said city; and if any fee, gratuity or reward shall be paid to any police officer for any service, he shall forthwith pay the same over to the clerk of said municipal court, for the use of said city; and the failure to do so shall be a misdemeanor, punishable by fine not exceeding one hundred dollars, or by imprisonment not exceeding thirty days. (*Id.* § 18.)

*§ 127. **Title to real estate.** In case it shall appear from the pleadings, or upon the trial of any cause, that the title to real estate is involved in the action, the municipal court shall not proceed further therein, but shall transfer the action to the district court of said county, and the cause shall be proceeded with in the court to which it shall be transferred, as if originally commenced therein. (*Id.* § 19, as amended by Sp. Laws 1878, c. 65, § 6.)

*§ 128. **Prosecuting officers.** The city attorney of the city of Minneapolis shall have charge of the prosecution of all criminal proceedings before said municipal court; but the county attorney of the county of Hennepin may, at his discretion, act in the prosecution of offenders charged with offences against the criminal laws of the state. (*Id.* § 20.)

*§ 129. **Clerk to procure supplies for court.** The clerk of the municipal court shall, under the direction of the judge, and with the consent of the city council of said city (unless otherwise provided), from time to time, procure and furnish all the necessary blanks, stationery, record-books, court-room, jury-room, and office furniture, lights and fuel for the use of the court and the officers thereof, at the expense of the said city. (*Id.* § 21.)

*§ 130. **Justices of peace superseded.** Upon the election and qualification of the municipal judge, all causes and proceedings then pending before justices of the peace within said city, shall forthwith, by said justices, be transferred to said municipal court, with all papers and records concerning the same; and said municipal court shall take cognizance of such causes and proceedings, and proceed therein as if the same were originally commenced in said municipal court. And the dockets, records, files and papers in the custody of and all justices of the peace of said city shall at once be transferred and turned over to the said municipal court, which shall have full jurisdiction to finish and complete all proceedings pending before any justice of the peace, and to enforce, by execution or otherwise, all judgments theretofore rendered by justices of the peace within the present city of Minneapolis; and such judgments shall stand on the same footing as judgments of said municipal court. And after the election and qualification of said municipal judge, no justice of the peace within the city of Minneapolis shall issue any process, nor take cognizance of any action or proceeding, civil or criminal; but the jurisdiction of said municipal court shall, within said city, be exclusive in all causes heretofore cognizable before justices of the peace, except that this clause shall not affect the jurisdiction of any court of record having general jurisdiction, such as is conferred upon the district court. (*Id.* § 22.)

MUNICIPAL COURT OF STILLWATER.*

*§ 131. **Court established.** There is hereby established in said city a court of record, to be called "municipal court," for the transaction of all business which may lawfully come before it. (Sp. Laws 1876, c. 200, § 4.)

*§ 132. **Clerk—seal—jurisdiction of court.** Said court shall have a clerk and a seal, and shall have, in addition to the jurisdiction and powers now conferred by said act upon the city justice of said city, cognizance of, and jurisdiction to hear, try and determine, civil actions or proceedings, where the amount in controversy does not exceed five hundred dollars, or where, in case the action is for the recovery of personal property, the value of such property does not exceed five hundred dollars: *provided*, however, that such cognizance and jurisdiction shall only extend to actions of the same nature and character, *save* as to amount, now or hereafter cognizable before a justice of the peace: *and provided further*, that where a counterclaim in excess of five hundred dollars over plaintiff's claim, or where any equitable defence or ground for equitable relief, of a nature not cognizable before a justice of the peace, is interposed, or where it appears that the title to real estate is involved, the said court shall immediately cause an entry of the fact to be made of record, and cease all further proceedings in the cause, and certify and return to the district court of the county of Washington a transcript of all entries made in the record relating to the case, together with all process and other papers relating to the suit, in the same manner and within the same time as upon an appeal from justice's court; and thereupon the said district court shall proceed in the cause to final judgment and execution, according to law, the same as if the said suit had been originally commenced in said court, and the costs shall abide the events of the suit, except that the plaintiff shall advance the costs of the said municipal court in the suit. (*Id.* § 5, *as amended by* Sp. Laws 1877, c. 55, § 1.)

*§ 133. **Election of judge—vacancy.** There shall be elected at the general city election, in the year one thousand eight hundred and seventy-six, in said city, and every second year thereafter, a suitable person, with the qualifications hereinafter mentioned, to the office of judge of said court, to be called "municipal judge," who shall hold his office for the term of two years, and until his successor is elected and qualified. In case of any vacancy in the office of municipal judge, occurring after such election in the year one thousand eight hundred and seventy-six, the governor of the state of Minnesota shall appoint, to fill the vacancy, some person qualified as hereinafter mentioned, who shall hold his office until his successor is elected and qualified. At the next annual city election, occurring more than thirty days after a vacancy in said office shall have happened, a judge of said court, qualified as aforesaid, shall be elected for the full term, and until his successor is elected and qualified. In case the said vacancy shall have occurred within a period of thirty days before the general city election, then the said judge shall be elected at the general city election in the year following that in which the vacancy shall have happened, for the said full term, and until his successor is elected and qualified. (*Id.* § 6.)

*§ 134. **Qualifications and powers of judge.** Every judge of said court shall be a resident of the city [of] Stillwater, and a person duly admitted to practice as an attorney in the courts of this state; and before entering upon the duties of his office he shall take and subscribe an oath as prescribed by the General Statutes for judicial officers, which oath shall be filed in the office of the city clerk of said city. The judge of said municipal court shall have the general powers of judges of courts of record, and may administer oaths, take and certify acknowledgments, in all cases, and, as conservator of the peace, shall have all

*An act to amend the charter of the city of Stillwater, providing for a municipal court therein. Approved March 6, 1875. (Sp. Laws 1875, c. 200.)

powers and authority which is by law vested in justices of the peace, or any other judicial officer. (Sp. Laws 1876, c. 200, § 7.)

*§ 135. **Qualifications of clerk—deputy.** The city clerk of said city shall be *ex officio* clerk of the said municipal court. Such clerk, before he enters upon the duties of his office, shall take and subscribe an oath to support the constitution of the United States, and of the state of Minnesota, and to faithfully and honestly discharge and perform the duties of his office, and shall execute to the city of Stillwater a penal bond, in such sum and with such sureties as the council shall direct and approve, conditioned that he will account to and pay over to the treasurer of said city, on the first Monday of every month, all fines, penalties, fees, and other moneys belonging to or to go to said city, which may have come into his hands during the month next preceding; and that he will at all times pay over to all other persons, on demand, all moneys to which they may be entitled, which may have come into his hands in virtue or by reason of his office. Such oath and bond shall be filed in the office of the treasurer of said city. Such clerk shall have power to appoint, subject to the approval of the judge, a deputy clerk, with the like powers of the clerk, for whose acts the said clerk shall be responsible. (*Id.* § 8.)

*§ 136. **Powers of court—process—forms.** The municipal court shall have full power and authority to issue all process, civil and criminal, necessary or proper to carry into effect the jurisdiction given to it by law, and its judgments and other determinations. And it shall have and possess all the powers usually possessed by courts of record at common law, subject to modifications of the statutes of this state applicable to courts of record, except that it shall not have jurisdiction to issue writs of habeas corpus, quo warranto, ne exeat, mandamus, prohibition or injunction. It shall also have all the powers and jurisdiction conferred on justices of the peace by chapter eighty-four, General Statutes, and the proceedings shall be the same as therein provided, except that no appeal shall be allowed except to the supreme court. All process shall be tested in the name of the judge, and issued under the seal of the court, and signed by the clerk, who shall be styled "clerk." And the forms of process may be prescribed by the court, by rule or otherwise, and any form so prescribed shall be valid and sufficient, and such forms may be changed by the court from time to time. In the absence of such prescribed form, the forms of process in use, either in courts of record in this state, or by justices of the peace, may be changed and adapted to the style of the court, and used at the discretion of the court or clerk. Process may be directed for service, to any police officer of the city of Stillwater, or to the sheriff or any constable of said county, and may be served the same as a summons in the district court, and service by publication may be ordered and made in like manner. (*Id.* § 9.)

*§ 137. **Place of holding court—judge as criminal magistrate.** The said municipal court shall be held in the city [of] Stillwater, at some suitable place, to be provided therefor by the city council. Its judge shall be chief magistrate of the city, and shall see that the criminal laws of the state, and the ordinances, laws, regulations and by-laws of said city, are observed and executed, and for that purpose shall open his court every morning, (Sundays and legal holidays excepted,) and proceed to hear and dispose of, in a summary manner, all cases which shall be brought before him by the police officers of the city, or otherwise, either with or without process, for violation of the criminal laws of this state, committed within the county of Washington, or of the ordinances, laws, regulations or by-laws of said city. The clerk of the court shall keep a record of all proceedings, and enter all orders, judgments and sentences, under the supervision of the judge, and issue commitments and executions as well as all other process. (*Id.* § 10.)

*§ 138. **Duties of clerk.** The clerk of the municipal court shall have the custody and care

MINNESOTA STATUTES 1878

of all the books, papers and records of said court. He shall be present, by himself or deputy, at all trials, unless absent from sickness, or by consent of the judge; and in case of the absence of both clerk and deputy, the judge may appoint some person temporarily to the position. He may swear all witnesses and jurors, and administer all oaths and affidavits, and take acknowledgments. He shall keep minutes of all proceedings, and enter all judgments, and make up and keep the records of the court, under the direction of the judge, and, when the judge is not present, adjourn the court from day to day. He shall tax all costs and disbursements allowed in any action, subject to review by the judge, and do all other things and acts necessary or proper to the enforcing and carrying out the jurisdiction of the municipal court. He shall receive and collect all fines, penalties and fees of every kind accruing to the court, or any officer thereof, including police officers, and keep full, accurate and detailed accounts of the same; and shall, on the first Monday of every month, deliver over to the city treasurer of the city of Stillwater, moneys so received, with detailed accounts thereof, and take his receipt therefor. (Sp. Laws 1876, c. 200, § 11.)

*§ 139. Terms—summons and service—pleadings, etc.—security for costs. The municipal court shall hold regular terms for the trial of civil actions, on the first and third Tuesdays of every month, which terms shall continue from day to day, with such adjournments as to the court may seem proper, until the business of each term shall be finished; and the court may by rule or order appoint such terms to be held oftener, or upon other days, than the days above mentioned. All civil actions for the recovery of money only shall be commenced by summons or by writ of attachment, to be issued by the clerk. The form of the summons may be as follows:

State of Minnesota,	} ss.	Municipal Court,
County of Washington,		City of Stillwater.

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

You are hereby commanded to summon.....if..... shall be found within the county of Washington, to be and appear before the municipal court of the city of Stillwater, at a term thereof to be holden on Tuesday, the.....day of..... A. D....., at the opening of the court, and answer to....., whose complaint is on file in said court, and have you then and there this writ. The amount claimed by the plaintiff in said complaint is the sum of.....dollars and.....cents, and interest thereon from and since the.....day of..... A. D. 18....., at the rate of.....per cent. per annum.

Witness the Honorable....., Municipal Judge, this.....day of....., A. D. 18.....

[L. S.] Clerk of the Municipal Court.

The summons may be served by any indifferent person. Or the summons may be in any other form which the court may by rule prescribe, and shall be served upon the defendant at least six days before the term at which the same is made returnable. No summons shall issue until the complaint in the action shall be made and filed with the clerk. The complaint may be presented in writing, to be filed, or may be made orally, and reduced to writing by the clerk. If the defendant fail to appear at the opening of the court on the day at which the summons is returnable, he shall be defaulted; if he so appear, he shall then, or at such time as the court may designate, answer the plaintiff's complaint; and if the answer contain a counterclaim, the plaintiff shall reply thereto forthwith, or at such time as the court may designate. The answer or reply may be presented in writing, or made orally, and reduced to writing by

MINNESOTA STATUTES 1878

the clerk, and each of such pleadings shall be verified by the party, or his agent or attorney, as in courts of justices of the peace. Either party may demur to any pleadings of his adversary, as in the district court, but all pleadings in this court shall be construed liberally. And the court may, for good cause, in its discretion, and on such terms as it may deem equitable, open any default within six months after the same is made, and may allow any amendment of any pleading, at any time, and shall disregard variance between the allegations of a pleading and the evidence, unless satisfied that the adverse party is prejudiced thereby. Either party shall be entitled to a continuance of any civil action, except in the case of proceedings under the provisions of chapter eighty-four, General Statutes of Minnesota, until the next term of the court following the term at which the summons shall be returnable; and further continuance may be granted upon such sufficient cause shown, and on such terms as may be just. Said court shall also have authority to provide by rule that the plaintiff in any civil action shall, by bond, recognizance, or deposit of money with the clerk, give security for costs, in such sum as the court may designate by such rule, before any summons or other process shall issue in the action, or at any other time. The counterclaim in the defendant's answer may be such a one as could be interposed in the district court. (Sp. Laws 1876, c. 200, § 12.)

*§ 140. Attachment. Any creditor desiring to proceed by attachment in said court shall, by himself, his agent or attorney, make and file his complaint in writing, together with an affidavit similar to the affidavit required by law in an application for a writ of attachment in justice's court, and also cause to be filed a bond with sufficient surety to be approved by the judge, and similar to the bond required on a like application in justice's court, except that the limit of liability thereon shall be mentioned therein as not exceeding three hundred and fifty dollars. The writ of attachment may be in form as follows:

State of Minnesota, } ss. City of Stillwater,
County of Washington. } Municipal Court.

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

You are hereby commanded to attach the goods, chattels, moneys, effects and credits of....., or so much thereof as shall be sufficient to satisfy the sum of.....dollars, with interest and costs of suit, in whosoever hands or possession the same may be found, in said county of Washington, and so provide that the same may be subject to further proceedings as the law requires; and also to summon.....the said....., if to be found within said county, to be and appear before the municipal court of the city of Stillwater, at a term thereof to be holden on.....the.....day of....., A. D., 18....., at the opening of the court, and answer to....., whose complaint is on file in said court, in a civil action; and have you then and there this writ.

Witness the Honorable.....Municipal Judge, this.....day of.....A. D. 18.....

Clerk of the Municipal Court.

Or the writ may be in any other form that the court may by rule prescribe, and shall in all cases be returnable as an ordinary summons. In all other respects the service of the writ, and other proceedings thereon, shall be similar, as near as may be, to the service of such writ and proceedings in justice court: provided, however, that in all cases where such writ shall be served on the defendant, personal judgment may be entered in said action, whether property be actually attached by virtue of said process, or not. (Id. § 13.)

*§ 141. Replevin. When the object of an action is to recover the possession of personal

property, the plaintiff, his agent or attorney, shall make and file his complaint in writing, together with an affidavit similar to the affidavit required in a justice court in like action. The plaintiff, or some person on his behalf, shall execute a bond with surety, to be approved by the judge, conditioned similar to bonds in such actions in justice court, and file such bond; and an action may be maintained on such bond as upon similar bonds filed in like actions in justice courts. The clerk shall thereupon issue the writ, which may be in form as follows:

State of Minnesota, }
 County of Washington. } ss. City of Stillwater,
 Municipal Court.
 The State of Minnesota to any police officer of the city of Stillwater, or to the sheriff or any constable of said county:

Whereas, complains that.....
has become possessed of, and unjustly detains from the said
, the following described goods and
 chattels, that is to say, (describing the articles with reasonable certainty, and
 stating their alleged value): Therefore you are hereby commanded that you
 cause the same goods and chattels to be replevied without delay, and delivered
 to said....., and to summons the said.....
, if to be found within said county, to be and appear before
 the municipal court of the city of Stillwater, at a term thereof to be holden
 on....., the.....day of.....,
 A. D. 18...., at the opening of the court, and answer to.....
, whose complaint is on file in said court, in a civil action; and have
 you then and there this writ.

Witness the Honorable..... Municipal Judge,
 this.....day of....., A. D. 18....

.....
 Clerk of the Municipal Court,

Or the writ may be in any other form that the court may by rule prescribe. The writ shall be served, and all proceedings thereunder had, in the same manner (except as to times and forms of pleading and trial) as upon similar proceedings in justice court. But the officer executing the writ shall retain the property taken under it in his own custody for three days before delivering the same to the plaintiff, and if, within that time, the defendant, or some one in his behalf, shall execute to the plaintiff a sufficient bond, with one or more sureties to be approved by the judge, conditioned as in like cases in the district court, and file such bond, the clerk shall thereupon issue an order to the officer to redeliver such property to the defendant. (Sp. Laws 1876, c. 200, § 14.)

*§ 142. Calendar. The clerk of the court shall, prior to each term of the court, make up a calendar of the causes which will come up for trial, or for any disposition before the court at such term, adopting such arrangement as the judge may direct; and the court shall direct the order of the trial, and other disposition of causes. (*Id.* § 15.)

*§ 143. Jury trial—drawing jurors—general powers of court—laws applicable. Trial by jury may be had in the municipal court as in courts of the justices of the peace, and the jury shall be selected in the same manner as in justice's court, and venirens therefor be issued by the clerk, and talesmen may be selected in the usual manner; but no person shall be compelled to serve as a juror in said court oftener than once in each month, nor shall any person who has served as a juror in said court be eligible as a juror or talesman in any cause that may be tried in said court within one month thereafter, if objected to by either party. Three peremptory challenges of talesmen may be made by either party. The jury shall take the same oath which is prescribed for jurors in the district court, and the respective functions of judge and jury, upon the trial

of causes, shall be the same as in district court, and exceptions to the rulings and decisions of the judge, and his charges and refusals to charge, may be taken as upon trials in the district court. When [where] no other provisions are otherwise made in this act, said municipal court is vested with all the powers which are possessed by the district courts in this state; and all laws of a general nature apply to the said municipal court, so far as the same can be made applicable, and not inconsistent with the provisions of this act. Jurors in said municipal court shall be entitled to like fees in the trial of civil actions as jurors in justices' courts, to be collected and paid in the same manner; but the party demanding a jury in any civil action shall be required to advance the jury fee of sixty cents for each juror, before the jury is sworn. That jurors in criminal cases shall be entitled to like fees as jurors in civil cases, which said fees shall be taxed as a part of the costs in the case. (Sp. Laws 1876, c. 200, § 16, as amended by Sp. Laws 1877, c. 55, § 1.)

*§ 144. **Referees—exceptions—new trials—costs—appeals.** Title eighteen of chapter sixty-six of the General Statutes, relative to trial by referees, title nineteen of the same chapter, relative to exceptions, and title twenty of the same chapter, relative to new trials, shall apply to the said municipal court. Disbursements shall be allowed the prevailing party in said municipal court, and costs, to be taxed forthwith without notice; such costs [to] shall be as follows: To the plaintiff, upon a judgment in his favor, five dollars; to the plaintiff, upon a judgment in his favor, upon a trial on the merits, where the amount thereof, or the value of personal property recovered, exclusive of disbursements, exceeds fifty dollars, an additional five dollars; to the defendant, when judgment is rendered in his favor on the merits, after trial of an issue of fact, five dollars; and if the amount of money or value of property claimed in the complaint exceeds fifty dollars, an additional five dollars. Appeals from this court shall be in all cases to the supreme court, where they lie in similar cases from judgments and orders of the district court. (*Id.* § 17.)

*§ 145. **Judgments—transcripts—executions.** No judgment rendered in said municipal court shall attach as a lien upon real estate until a transcript thereof shall be filed in the district court, as hereinafter provided; but writs of execution thereon in civil actions may issue, upon entry of judgment, against the goods and chattels of the judgment debtor, returnable within thirty days. Judgment may be stayed in this court the same as in justices' courts. Every person in whose favor a judgment is rendered in said municipal court for an amount exceeding ten dollars, besides costs, may, upon paying the fee therefor, and all unpaid fees payable to the clerk in such action, demand, and shall receive from such clerk, a transcript of such judgment, duly certified, and file the same in the office of the clerk of the district court of the county of Washington, who shall file and docket the same as in the case of transcripts of judgment from courts of justices of the peace; and every such judgment shall become a lien upon the real estate of the debtor from the filing of such transcript, to the same extent as a judgment of the said district court, and shall thereafter, so far as relates to the enforcement of the same, be exclusively under the control of said district court, and carried into execution by its process, as if rendered in said district court. The clerk of said municipal court shall not issue such transcript while a writ of execution is in the hands of an officer and not returned or lost, and shall note on the record of such judgment the fact that such transcript has been given, and shall not thereafter issue any writ of execution on the same judgment, but may at any time give to the same party, or his representatives, a new transcript of such judgment, in the case of the loss of the transcript first given. (*Id.* § 18.)

*§ 146. **Garnishment.** Proceedings against garnishees may be instituted in the same manner as in justices' courts; but the summons may be served either by any

officer or any indifferent person, at any place within the state of Minnesota; and the summons may be made returnable at any term of said municipal court which may be named therein, not less than six days; and the notice required to be served on the defendant in the action may be signed either by the clerk of said court, or the person who served the garnishee summons, or by the plaintiff or his attorney. The disclosure of the garnishee may be taken, and all further proceedings had, in the same manner as if the proceedings were in the district court. (Sp. Laws 1876, c. 200, § 19.)

*§ 147. **Proceedings in criminal cases.** Complaints in criminal cases, where the defendant is not in custody, may be made to the court while in session, or to the judge or clerk when not in session, and shall be made in writing, or reduced to writing by the judge or clerk, and sworn to by the complainant, whether the offence charged be a violation of the criminal laws of the state, or of the ordinances, regulations or by-laws of said city; and the clerk, as well as the judge, is hereby made a conservator of the peace, and vested with the same authority, discretion and power to act on receiving complaints, and issuing the warrants of said court in criminal cases. And complaints, warrants, and other process in criminal cases, may follow substantially the same forms heretofore in use by the justices of the peace or the city justice, with such alteration as may seem convenient to adapt the same to the style of said municipal court, or may be in such other form as the court may prescribe, sanction or approve. In cases where alleged offenders shall be in custody, and brought before the court or the clerk without process, the clerk shall enter upon the records of the court a brief statement of the offence with which the defendant is charged, which shall stand in place of a complaint, unless the court shall direct a formal complaint to be made; the plea of the defendant shall be guilty or not guilty; in case of failure to plead, the clerk shall enter a plea of not guilty, and a former acquittal or conviction for the same offence may be proved under that plea as well as if formally pleaded. In the examination of offenders charged with indictable offences, the clerk shall keep such minutes of the examination as the court may direct, and shall make the proper return to the court before which the party charged with the offence may be bound to appear. (Id. § 20.)

*§ 148. **Salary of judge and clerk—police officers.** The judge of said court shall receive a salary of twelve hundred dollars per year, and the clerk of said court, a salary of six hundred dollars per year, exclusive of his salary as city clerk, payable from the city treasury of Stillwater, in monthly instalments; and neither the said judge, clerk or deputy clerk shall receive any other fee or compensation for his services; but in all proceedings had in said municipal court, like fees shall be charged and collected by the clerk, as costs, as are allowed by law to justices of the peace in proceedings and upon trials before them, or for similar services. Police officers of said city are hereby vested with all the powers of constables under the statutes of Minnesota, as well as at common law; and police officers, in making service of any process, or doing other duty in respect to causes in said court, shall note, and return to the court for collection, such fees as are allowed to constables for the like services in justices' courts; and all fees, whether so charged by the clerk or any police officer, whether due from the county on preliminary examinations, or otherwise, shall be collected by the clerk as costs, and by him be accounted for and paid over to the city treasurer of said city, as hereinbefore provided for. (Id. § 21, as amended by Sp. Laws 1878, c. 68, § 1.)

*§ 149. **Police officers in attendance on court.** It shall be the duty of the mayor and chief of police of said city to see that a sufficient number of police officers are always in attendance upon said court, and in readiness to obey its mandates and serve its process, and preserve order in the proceedings. Police officers of said city

shall hereafter receive for their services no other compensation than the salary paid them by said city, except as otherwise provided in the act to which this is amendatory; and if any fee shall be paid to any police officer for any service, he shall forthwith pay the same over to the clerk of said municipal court, for the use of said city; and a failure to do so shall be a misdemeanor, punishable by fine not exceeding one hundred dollars, or by imprisonment not exceeding thirty days. The mayor of said city shall have the power, in his discretion, to appoint one or more persons, approved by the municipal judge, as policemen for special attendance and duty in said court, irrespective of the general or special rules, or legal regulations and enactments, relative to the qualifications of policemen; but such persons shall receive the same, but no greater compensation, unless the council direct greater compensation, as ordinary police; and all policemen attending said court may be required to give bonds to said city, in such sum as the council shall direct, for the performance of their duties, for the use of all persons interested: *provided*, however, that the above shall not affect the powers and duties of the general police in said court. (Sp. Laws 1876, c. 200, § 22.)

*§ 150. *Special judge.* There shall be one special judge of said municipal court, whose manner of election, term of office, power and duties shall be the same as those of municipal judge, except as otherwise provided in this act; and their successors shall be elected, and vacancies in their offices filled, in like manner. In case of press of business in said court or at the request of the municipal judge, or in case of the unavoidable and necessary absence or sickness of the municipal judge, on the request of the mayor or acting mayor of said city, the said special judge shall act as judge of said court; and when the special judge so acts at the request of the municipal judge, the said special judge and the municipal judge shall each have and exercise the powers of said court. If, on the return of the process, or at any time before trial commences, in any action or proceeding, civil or criminal, either party shall make it appear by affidavit that the judge is a material witness in the case, or shall make it appear by affidavit that, from prejudice or other cause, he has good cause to believe that the judge will not decide impartially in the matter, and shall, before making of the transfer as hereinafter provided, deposit with the clerk the sum of four dollars, as payment of one day's salary of said special judge, the said municipal judge shall forthwith turn over the said cause, with all the papers and records therein, to the said special judge, who shall thereafter act as judge in said case, with full powers as court; said special judge shall not act on the trial or examination of any case, or otherwise, except as above provided; and any special judge, acting as judge of said court, shall receive compensation at the rate of four dollars per day, the same to be paid by the city of Stillwater, and deducted from the salary of the municipal judge, except when the same shall be for services performed by the said special judge when the said municipal judge in necessarily and unavoidably absent or sick, or when the said special judge is called in to assist the said municipal judge during an unusual press of business, in which case the said special judge shall be paid by the city, and the same shall not be deducted from the salary of the municipal judge. This section shall not incapacitate any such special judge from acting as an attorney in any case or proceeding in said court; but when such judge is acting as judge of said court, he shall take no action in said case, save to adjourn the same. (*Id.* § 23, as amended by Sp. Laws 1878, c. 68, § 2.)

*§ 151. *Prosecuting officers.* The city attorney of the city of Stillwater shall have charge of the prosecution of all criminal cases before said municipal court not indictable, and the county attorney of the county of Washington shall act in the prosecution of offenders charged with indictable offences, when so required by law to prosecute before justices of the peace. (*Id.* § 24.)

MINNESOTA STATUTES 1878

*§ 152. **Clerk to provide supplies, etc.** The clerk of the municipal court shall, under the direction of the judge, and with the consent of the city council of said city, (unless otherwise provided,) from time to time procure and furnish all the necessary blanks, stationery, record-books, court-room, jury-room and office furniture, lights and fuel, for the use of the court and the officers thereof, at the expense of the said city. (Sp. Laws 1876, c. 200, § 25.)

*§ 153. **Justices of peace superseded.** All causes and proceedings pending before justices of the peace within the said city, at the time of the passage of this act, shall forthwith by said justices be transferred to said municipal court, with all papers and records concerning the same; and said municipal court shall take cognizance of such causes and proceedings, and proceed therein as if the same were originally commenced in said municipal court. And the dockets, records, files and papers in the custody of any and all justices of the peace of said city shall at once be transferred and turned over to the said municipal court, which shall have full jurisdiction to finish and complete all proceedings pending before any justice of the peace, and to enforce, by execution or otherwise, all judgments theretofore rendered by justices of the peace within the present city of Stillwater; and such judgments shall stand on the same footing as judgments of said municipal court. And from and after the passage of this act, no justice of the peace within the city of Stillwater shall issue any process, or take cognizance of any action or proceeding, civil or criminal; but the jurisdiction of said municipal court shall, within said city, be exclusive in all causes heretofore cognizable before the city justice, except that this clause shall not affect the jurisdiction of any court of record having general jurisdiction such as is conferred on the district court. (*Id.* § 26.)

*§ 154. **Same—custody of dockets, etc.** The term of office of each justice of the peace now existing in said city shall cease at the end of the two years for which he was elected, and shall not continue until his successor is elected and qualified. The said municipal court shall have the custody and possession of all dockets, records, files and papers of all justices in said city whose terms have expired, except where the same are lawfully in the possession of existing justices; and each justice in said city, upon the termination of his office as herein provided for, or other termination of his office, shall forthwith transfer all pending cases, and all dockets, records, files and papers in his custody, to the said municipal court, which shall have full jurisdiction to finish and complete all proceedings pending, when transferred, before any justice of the peace, and to enforce, by execution or otherwise, all judgments existing on such dockets thus transferred, or in his possession, of such court; and such judgments shall stand on the same footing as judgments of the said municipal court. The jurisdiction of said municipal court shall, within said city, be exclusive in all causes hereafter cognizable before justices of the peace, save as above excepted as to existing justices during their present terms of office, and except that this clause shall not affect the jurisdiction of any court of record having general jurisdiction, such as is conferred upon the district court. (*Id.* § 27.)

*§ 155. **Transfers from justices.** When any transfer of any action before a justice of the peace now existing in said city is made under section eighteen of chapter sixty-five of the General Statutes, such transfer, with all papers appertaining to the action, shall be made to the said municipal court, and not to another justice; and the said municipal court shall thereupon proceed to hear and determine the said action, and act thereupon in the same manner as if the same had been originally commenced therein. (*Id.* § 28.)

*§ 156. **Appeals from justices.** All appeals hereafter taken from the judgment of any justice of the peace now existing in said city, shall be taken to the said municipal court, and not to the district court; and title eleven of chapter sixty-five, as amended, shall, save as to the court to which the appeal is to be taken,

apply to the said appeal, and, as far as applicable, to the said municipal court in becoming possessed of any proceeding upon said appeal, and in all other respects. (Sp. Laws 1876, c. 200, § 29.)

*§ 157. **Costs in criminal cases.** In all criminal cases tried in said court, in which the defendant shall be convicted, the clerk shall tax, as costs of court, and, if not paid, judgment shall be entered therefor against the defendant, in the following sums, viz: In cases where no warrant is issued, and the defendant, upon being arraigned, shall plead guilty, two dollars. In cases where warrant shall be issued, and the defendant, upon arraignment, pleads guilty, two and one-half dollars. In cases where the defendant shall plead not guilty, and shall be tried before the court, five dollars. In cases where the defendant shall plead not guilty, and be tried before a jury, ten dollars. Said sums respectively to be in addition to all costs of witnesses, jurors, and other costs taxed in said actions, or either of them. (*Id.* § 30.)

*§ 158. **Costs on examinations.** In all examinations held by or before said court, to enquire of offences of which said court shall not have final jurisdiction, the clerk shall tax, as costs of said court for making such examination, the same fees as are now allowed to justices of the peace for similar services, and fifty per cent. additional thereto. (*Id.* § 31.)

*§ 159. **Deposit by plaintiff.** The plaintiff, upon making his complaint in all civil actions, shall pay to the clerk of said court one dollar for each one hundred dollars or fraction thereof claimed in the complaint. (*Id.* § 32.)

*§ 160. **Process—where to run—service.** All process issued by said court may run into any adjoining county in this state, and be served therein by any police officer or sheriff or constable of said county, or by any indifferent person therein, in the manner provided. (*Id.* § 33.)

CHAPTER LXV.

COURTS OF JUSTICES OF THE PEACE.

SECTION.	JURISDICTION.	SECTION.	PLEADINGS AND TRIAL.
1-6.	Territorial limits—place of keeping office—not to keep office with attorney—general powers of court—general laws applicable—jurisdiction—actions not within jurisdiction.	23-31.	Pleadings, when to take place—names and contents—oral or in writing—requisites of complaint—of answer—counterclaim and reply—denial of knowledge or information—actions on account, etc., for money only—inspection of writings—verifications.
	[COMMENCEMENT OF ACTIONS, ETC.	32-35.	Admission by failure to deny—plaintiff to prove case, when—objections to pleadings—variances disregarded—amendments.
7-9.	Docket and its contents—dockets of justices who have gone out of office—execution on judgments therein.	36-38.	Adjournment at close of pleading—proceedings where title to real estate is involved—adjournments after the first.
10-12.	Actions, how commenced—when defendant's name is unknown—security for costs—requisites of summons and process.		SET-OFFS.
13.	Summons and service thereof.	39-44.	What may be set off and when—against assignees, trustees and nominal plaintiffs—counterclaim to be pleaded—judgment when it is established—when balance is found due to defendant.
14-17.	Service by publication—by person specially authorized—failure to execute process—false return.		
18-19.	Next friend or guardian for infant parties.		
20.	Transfer from one justice to another.		
21-22.	Time for appearance—failure to appear—offer of judgment.		