

REVISED LAWS OF
MINNESOTA 94

SUPPLEMENT 1909

CONTAINING

THE AMENDMENTS TO THE REVISED LAWS,
AND OTHER LAWS OF A GENERAL AND
PERMANENT NATURE, ENACTED
BY THE LEGISLATURE IN
1905, 1907, AND 1909

WITH HISTORICAL AND EXPLANATORY NOTES TO PRIOR STATUTES
AND FULL AND COMPLETE NOTES OF ALL
APPLICABLE DECISIONS

COMPILED AND ANNOTATED BY
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CHAPTER 75.

COURTS OF JUSTICES OF THE PEACE.

GENERAL PROVISIONS.

3882. Jurisdiction limited to county.

Cited in *Bunker v. Hanson*, 99 Minn. 426, 109 N. W. 827.

3887. Actions not within jurisdiction:

G. S. 1894, § 4960, as amended by Laws 1899, c. 321, cited in *Union Stoneware Co. v. Lang*, 103 Minn. 466, 115 N. W. 271.

See note under section 3888.

3888. Action, where brought.

Jurisdiction.—Under G. S. 1894, § 4960, as amended by Laws 1899, c. 321, it is a jurisdictional requirement that all actions at law be brought in the township, village, or city. *Union Stoneware Co. v. Lang*, 103 Minn. 466, 115 N. W. 271.

See, also, *Stevenson v. Murphy*, 106 Minn. 243, 119 N. W. 47.

COMMENCEMENT OF ACTIONS.

3894. Summons—Service.—In all cases not otherwise provided for, the first process shall be a summons commanding the officer to summon the defendant to appear before such justice at a time and place specified therein, not less than six nor more than twenty days from the date thereof, to answer to the plaintiff in a civil action, which shall be served at least six (6) days before the time of appearance therein mentioned by reading the same to the defendant, and delivering a copy thereof to him, if he can be found, and, if not found, by leaving a copy thereof at his last usual place of abode, with a person of suitable age and discretion, then residing therein. No justice of the peace shall issue any summons or other process in a civil action to be served in any city having a population of two hundred thousand or over, except executions upon existing judgments and service of summons in accordance with the provisions of section 3973, Revised Laws 1905, and other service of such process made within any such city shall be void. (R. L. § 3894, as amended by Laws 1909, c. 348, § 1.)

PLEADINGS AND TRIAL.

3904. Time to plead—Adjournment on return day.

Time to plead.—Where defendant appeared and answered orally three days before the return day, there being no appearance for defendant on the return day, the justice properly entered judgment for plaintiff upon proof. *Taylor v. Walther*, 97 Minn. 490, 107 N. W. 162.

When the parties appear on the return day, and on motion of plaintiff the hearing is adjourned for one week, the answer may be filed on the day to which the hearing is adjourned. *Nohre v. Wright*, 98 Minn. 477, 108 N. W. 865.

3913. Admission by failure to deny—Proof on default.

Unliquidated damages.—This section does not authorize judgment in an action to recover unliquidated damages without proof of amount of damages. *Nohre v. Wright*, 98 Minn. 477, 108 N. W. 865.

JUDGMENTS.

[3943—]1. **Certain sales legalized—Curative.**—That in all cases where judgment has been rendered in any justice court of this state and transcribed to the district court in the proper county and execution issued out of the district court on said judgment, and levies

and sales of real estate made under and pursuant to said execution without first having an execution issued and returned unsatisfied in justice court as provided by law, such levies and sales made thereunder are hereby in all things legalized and said sales declared as valid and effective in all respects as if the execution had been duly issued and been returned unsatisfied in justice court before said transcript had been issued and filed in the district court, provided this act shall not apply to any action now pending. ('05 c. 258 § 1)

Historical.—"An act legalizing sales of real estate under execution issued out of the district court upon judgment rendered by justices of the peace and transcribed to district court before executions were issued by the justice." Approved April 18, 1905.

By section 2 the act took effect January 1, 1906.

APPEALS.

3981. May be taken, when.

Cited in *Van Vlissingen v. Oliver*, 102 Minn. 237, 113 N. W. 383.

3985. Appeals, how tried—Judgment.

Cited in *State ex rel. Hall v. Long*, 103 Minn. 29, 114 N. W. 248.

3986. Entry on calendar—Effect of omission.

Cited in *Blandin v. Brennin*, 106 Minn. 353, 119 N. W. 57.

3989. Defective bond.

Application in general.—This section applies to appeals in civil actions only. *State v. Mattson*, 105 Minn. 63, 117 N. W. 227.

3991. Judgment, when affirmed—Against sureties.

Cited in *Blandin v. Brennin*, 106 Minn. 353, 119 N. W. 57.

Dismissal of appeal—Effect.—This section gives the court the power, but does not require it, to affirm the judgment upon dismissal of an appeal for any cause, or upon default of appellant to appear and prosecute his appeal. Where defendant, upon conviction, took an appeal, which was dismissed on his own motion, a warrant of commitment was properly issued by the justice. *State ex rel. Hall v. Long*, 103 Minn. 29, 114 N. W. 248.

CRIMINAL PROCEEDINGS.

3999. Jurisdiction.

See section [3999—] 1.

G. S. 1894, § 5093, cited in *State ex rel. Rosckes v. Dreger*, 97 Minn. 221, 106 N. W. 904.

Jurisdiction—Death of justice.—A prosecution pending and undetermined before a justice terminates upon his death, and is not a bar to further prosecution on the same charge. *State ex rel. Faughnan v. Miesen*, 96 Minn. 466, 105 N. W. 555.

[3999—]1. **Same.**—Justices of the peace have power and jurisdiction, throughout their respective counties, as follows:

First—To cause to be kept all laws made for the preservation of the peace;

Second. To cause to come before them, or any of them, persons who break the peace, and commit them to jail, or bail them, as the case may require.

Third. To arrest and cause to come before them, persons who attempt to break the peace, persons who keep houses of ill fame, or frequenters of the same, or common prostitutes, and compel them to give security for their good behavior, and to keep the peace.

Fourth. To cause to come before them persons who are charged with committing any criminal offense and commit them to jail, or bail them, as the case may require; provided, however, that no justices of the peace shall have jurisdiction of any offenses committed within the limits of any city or village wherein a municipal court is organized and existing, but such offenses, otherwise cognizable by justices of the peace, and those arising under the charter

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ordinances or by-laws of the city or village shall be examined or tried by the municipal court therein existing; provided that this act shall not apply to any cities or villages having justice of the peace courts established by home rule charter, nor to territory within one-half mile of the outer limits of the state fair grounds. (G. S. 1894, § 5093, as amended by Laws 1905, c. 104, and Laws 1907, c. 234.)

Historical.—"An act to amend section five thousand and ninety-three of the General Statutes of Minnesota for the year one thousand eight hundred and ninety-four relating to jurisdiction of justices of the peace," approved April 5, 1905 (Laws 1905, c. 104), as amended by "an act to amend section one of chapter one hundred and four of the General Laws of the State of Minnesota for the year one thousand nine hundred and five, relating to jurisdiction of justices of the peace," approved April 18, 1907 (Laws 1907, c. 234).

G. S. 1894, § 5093, was section 130 of G. S. 1866, c. 65, which was repealed by R. L. § 5518; the provisions of said section being incorporated in R. L. § 3999.

4000. Same—To try and determine.

G. S. 1894, § 5094, cited in *State ex rel. Roskes v. Dreger*, 97 Minn. 221, 106 N. W. 904; *State v. Marciniak*, 97 Minn. 355, 105 N. W. 965.

4018. Appeal—Requisites.

Bond.—A bond conditioned that defendant shall be and appear at the first general term of the district court, and shall not depart thence without leave duly granted, does not conform to the statutory requirements, and is void. *State v. Mattson*, 105 Minn. 63, 117 N. W. 227.

A bond which does not contain the condition "that the defendant abide by the judgment of the court" to which the appeal was taken, fails to conform to the requirements of this section. *State v. Mattson*, 105 Minn. 164, 117 N. W. 503.

4025. Certificate of conviction—Duty of clerk of district court—Statement of costs.—Every justice, within twenty days after any conviction had before him, shall make and cause to be filed with the clerk of the district court of his county a certificate, under his hand, briefly stating therein the offense charged, the conviction and judgment, and the amount of fine collected. The clerk of the district court where the same is filed shall thereupon record, docket, index and make a permanent record of such conviction in books kept for that purpose in his office, and shall receive for such services the same compensation as is now by statute provided for entering and indexing all other similar actions coming into his office. And within ten days after the trial of any criminal action before him, such justice shall prepare an itemized statement of the costs taxed therein against the state, and file the same with the county auditor. No bills for justice fees shall be allowed by the county board until such statement is filed as herein provided, and until all fines collected by such justice have been forwarded as provided by law. For each of such reports, required to be made by this section, the justice may include in his taxable costs twenty-five cents. (R. L. § 4025, as amended by Laws 1907, c. 317.)

CHAPTER 76.

FORCIBLE ENTRY AND UNLAWFUL DETAINER.

4038. Tenant, etc., holding over—Removal.

Jurisdiction.—The municipal court of Minneapolis has no jurisdiction in proceedings based on breach of the contract of a lease of lands, part of which were within, and part without, Hennepin county. The breach gave rise to one indivisible cause of action, which could not be split, so as to make two suits and thus bring them within the jurisdiction of the court. *Bunker v. Hanson*, 99 Minn. 426, 109 N. W. 827.

Transfer to district court.—An action for forcible entry and unlawful detainer, transferred to the district court after it appears that the title to real