

## CHAPTER 224.

AN ACT TO ESTABLISH A MUNICIPAL COURT IN THE CITY OF MANKATO, BLUE EARTH COUNTY, MINNESOTA.

*Be it enacted by the Legislature of the State of Minnesota:*

SECTION 1. There is hereby established in the city of Mankato, in the county of Blue Earth, 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 amounts in controversy does not exceed five hundred (\$500) dollars. 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 Mankato, 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; nor cases involving the title to real estate; nor for false imprisonment, libel, slander, malicious prosecution, criminal conversations or seduction, or upon a promise to marry; nor for an action against an executor or administrator as such, and when in any cause pending in said court a counter claim in excess of five hundred (\$500) dollars over plaintiff's claim, or an equitable defense or ground for equitable relief is interposed, or whenever it shall appear from the pleadings or upon the trial of any cause 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 order the clerk to certify and return to the district court in and for the county of Blue Earth, a transcript of all entries made in the record relating to the cause, together with all process and papers relating to the cause, and the clerk shall within ten (10) days after being so ordered make such certificate and return; and thereupon said district court shall proceed in the cause to final judgment and execution the same as if said cause had been commenced in said district court as near as may be, and the costs shall abide the event of the action; *Provided*, The clerk of said municipal court shall not make said certificate or return, until the costs chargeable by the clerk in favor of the city have been paid.

SEC. 2. The qualified electors of the city of Mankato, shall at the general city election to be holden on the first (1st) Tuesday in April, in the year one thousand eight hundred and eighty-two (1882), and on the day of the general city election every third (3) 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 (3) 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, occurring more than thirty (30) days after the vacancy shall have happened, when a judge shall be elected for a full term of three (3) years.

SEC. 3. The judge of the municipal court shall be a resident of the city of Mankato, and a qualified elector therein, a person learned in the law and duly admitted to practice as an attorney in 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 recorder of said city. He shall have the general powers of judges of courts of record, and may administer oaths and 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 the justices of the peace or any other judicial officer. There shall be one (1) 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 judge, except as otherwise provided in this act, and his successor shall be elected and vacancies in his office filled in like manner. At the request of the municipal judge or in case of the absence, sickness or disqualification of the municipal judge, the said special judge shall act as judge of said court. 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 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 three (\$3) dollars per day, and when said special judge shall act for any other cause than the sickness or disqualification of said municipal judge, three (\$3) dollars per day for each day that said special judge shall so act, shall be deducted from the salary of said municipal judge. This section shall not incapacitate such special judge from acting as attorney 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.

Nothing in this act shall be so construed as to disqualify or prevent the municipal judge from practicing as an attorney or counsellor in any court of this state, except in said municipal court.

In all actions or proceedings in the district court of Blue Earth county, wherein the judge of said court may enter a trial of said actions or proceedings, the same may be referred to the said municipal judge to hear, try and determine or report the evidence thereon as may be ordered or agreed upon, and said judge so acting as referee shall be entitled to the same fee for said services as other referees, and such fees when paid, shall be and constitute a part of his salary of one thousand (\$1000) dollars. He may accept said reference with all the powers of a referee.

SEC. 4. The city recorder of the city of Mankato, shall be ex-officio clerk of said 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 Mankato a penal bond, in the sum of one thousand (\$1000) dollars with two (2) sureties, approved by the mayor of said city of Mankato, conditioned that he will account to and pay over to the said city, on the first (1st) 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 hand during the month next proceeding, and that he will at all times pay over to all other persons, on demand, all moneys to which they may be entitled, which have come into his hands in virtue or by reason of his said office. Such oath and bond shall be filed in the office of the city treasurer of said city.

SEC. 5. 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 its 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 warrant, ne exeat, mandamus, prohibition nor injunction. All process shall be attested 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 form may be changed by the court from time to time in the absence of such prescribed forms of process in use, either in courts of record of 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 Mankato, or to the sheriff or any constable of said Blue Earth county.

SEC. 6. The municipal court shall be held in the city of Mankato, 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 causes 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 Blue Earth, or of the ordinances, laws, regulations or by-laws of said city. The clerk of said court shall keep a record of all its 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.

SEC. 7. 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 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 directions 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, and when the judge is not present adjourn the court from day to day. He shall receive all fines and penalties and all fees of every kind according to the court or clerk, and keep full, accurate and detailed accounts of the same; and shall on the first (1st) Monday of every month, deliver and pay over to the city treasurer of the city of Mankato, all moneys so received with detailed accounts thereof, under oath.

The clerk of said court may, when he deems the same necessary, appoint with the sanction of the judge, a deputy clerk of said municipal court, for whose acts the said clerk shall be responsible; and said deputy shall be appointed under the hand of said clerk and seal of said court, with the sanction of said 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, which oath together with the appointment of such deputy clerk, shall be filed in the office of the city treasurer of the city of Mankato; 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 of said court shall receive no compensation from the city of Mankato. The said deputy clerk may administer oaths, take acknowledgements, and perform all the duties pertaining to the office of clerk of said municipal court.

SEC. 8. The municipal court shall hold regular terms for the trial of civil actions, on the second (2d) 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 BLUE EARTH. }	} ss.	CITY OF MANKATO, MUNICIPAL COURT.
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The state of Minnesota to any police officer of said city, or to the sheriff or any constable of said county:

You are hereby commanded to summon.....  
.....if he shall be found within the county of Blue Earth,  
to be and appear before the municipal court of the city of Mankato,

at a term thereof to be holden on the.....day of.....  
 .....18....at the hour of.....o'clock in the forenoon, 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.....18...., at the rate of....  
 per cent. per annum.

[L. s.] Witness the Honorable.....  
 municipal judge, this.....day of.....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 (6) days before the commencement of the term, at which the same is made returnable. The manner and effect of service shall be the same as that provided by law for the service of summons in the district courts of this state; and a summons issued out of said municipal court may be served under like circumstances and in the same manner as in the district court. No summons shall be issued until the complaint in the action shall have been filed with the clerk. All pleadings in said municipal court shall be in writing.

If the defendant fail to appear at the opening of the court on the day on which the summons is made returnable, judgment may be entered against him for an amount not exceeding that mentioned in the summons and for costs and disbursements, except that when the action is for unliquidated damages or relief the plaintiff shall obtain such judgment, only as he shall show himself entitled to by evidence and proof. If he so appear, he shall then or at such time as the court may designate, by rule or otherwise, answer the complaint; and if the answer contain a counter-claim or new matter, the plaintiff shall reply thereto forthwith, or at such time as the court may by rule or otherwise designate. The answer and reply shall be in writing and filed with the clerk, and each pleading shall be verified by the party, his agent or attorney, either as in courts of justices of the peace or in the district courts of this state.

Either party may demur to any pleading of his adversary, as in the district court, except that the demurrer to any pleading shall be filed within the same time allowed for filing an answer or reply to such pleading. All pleadings of this court shall be construed liberally, and where technical objections shall be designated. And the court may for good cause, in its discretion and on such terms as it may deem equitable, open any default at the same term at which it occurred, or allow an 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 continuance of a civil action, except actions for forcible entry and unlawful detainer, until the next term of the court following the term at which the summons is made returnable; and further continuance

may be granted upon sufficient cause shown, and on such terms as may be just. Said court shall have authority to provide that the plaintiff in any civil action in which a justice of the peace would have jurisdiction, or when the defendant is a non-resident shall by bond, recognizance or deposit of money with the clerk, give security for costs in such sum as the court may designate; when the plaintiff in any cause shall neglect or refuse to give such security when so ordered within a time to be designated by the court, the court may dismiss such cause at the cost of said plaintiff.

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

To the plaintiff, upon a judgment in his favor of one hundred (\$100) dollars or more, or in actions of replevin when the value of the property is one hundred (\$100) dollars or more, when no issue of fact or law is joined, five (\$5) dollars; when an issue is joined, ten (\$10) dollars.

To the defendant, when the amount claimed in the complaint is one hundred (\$100) dollars or more, upon discontinuance or dismissal, five (\$5) dollars; when judgment is rendered in his favor upon the merits, ten (\$10) dollars.

Costs and disbursements shall be taxed and allowed in the first instance by the clerk, upon two (2) days notice in writing by either party, unless notice is waived by stipulation, and inserted in the entry of judgment. The disbursements shall be stated in detail, and verified by affidavit unless otherwise stipulated by the parties. The party objecting to any item shall specify in writing the ground of objection, and the 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. All papers specified in this section shall be filed with the clerk.

SEC. 9. Any creditor desiring to proceed by attachment in said court, may at the time of commencing the action, or thereafter and while the 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 court, and also cause to be filed with the clerk a bond, with sufficient sureties, to be approved by the judge and similar to the bond required on like applications in justices' court, except that the limit of liability thereon shall be mentioned therein as not exceeding the sum of two hundred and fifty (\$250) dollars. The writ of attachment may be in form as follows:

STATE OF MINNESOTA, ) CITY OF MANKATO,  
 ) ss.  
 COUNTY OF BLUE EARTH. ) MUNICIPAL COURT.

The state of Minnesota to any police officer in the city of Mankato, 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 who-

soever hands or possession the same may be found in said county of Blue Earth, and so provided 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. 18.....

.....Clerk.

Or the writ may be in any other form that the court may prescribe by rule. In all other respects, save as in this act otherwise provided, 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.

SEC. 10. The defendant may at any time before the time for answering expires, or at any time thereafter when he has answered, and before the trial, apply to the court, on five (5) days notice, to vacate the writ of attachment. If the motion is made upon affidavits on the part of the defendant but not otherwise, the plaintiff may oppose the same with affidavits in addition to those on which the writ of attachment was allowed.

SEC. 11. The plaintiff in an action to recover the possession of personal property, may at the time of the issuing of the summons, or at any time before answer, claim the immediate delivery of such property. The plaintiff, his agent or attorney, shall make and file an affidavit, similar to the affidavit required in the district court in like actions. 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 as near as may be, 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, ) CITY OF MANKATO,  
                                  ) ss.  
COUNTY OF BLUE EARTH. ) MUNICIPAL COURT.

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

Whereas,.....complaints that  
.....has become possessed of and  
unjustly detains from.....  
the following described goods and chattels, that is to say: (particularly describing the articles and value,) therefore, you are hereby commanded to cause the same goods and chattels to be replevined without delay, and deliver to the said.....  
.....and return this writ to said court within.....days together with the return of the proceedings thereon.

Witness the Honorable.....  
municipal judge, this.....day of.....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 proceeding thereunder had in the same manner, as near as may be consistent with the practice of this court, in proceedings of replevin in justices' court; but the times and forms of pleadings and trial shall be the same as in other actions in this court. The officer executing the writ shall retain the property taken under it, in his own custody for three (3) 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 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 deliver such property to the defendant.

SEC. 12. The defendant may except to the sufficiency of the plaintiff's sureties within the same time and in the same manner as in proceedings of claim and delivery of personal property in district court; and when defendant so excepts, the same proceedings shall be had as in like actions in district court, except that the jurisdiction of sureties shall be had before the judge of said municipal court or the special judge thereof and no other. The qualifications of sureties shall be the same as required for sureties in like actions in district court.

SEC. 13. 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 trial, and other disposition of causes.

SEC. 14. Trial by jury in the municipal court shall in all respects, except as herein otherwise provided, be conducted as in the district courts of this 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 presiding judge of said municipal court, together with the senior alderman from each ward of the said city of Mankato, or in case of the failure of any of said aldermen to act, any two (2) of them, shall on the first (1st) Monday of February, May, August and November in each year, at the office of the clerk of said court, meet and from the legal voters of said city, select and designate seventy-two (72) legal voters of said city as the jurors of said municipal court, to serve therein when required and drawn, during the succeeding three (3) 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 thirty (30) ballots, or in case a jury of six (6) is agreed upon by both parties to the pending action, in the same manner as in justice court, he shall draw twenty-four (24) ballots therefrom, and shall make a list thereof, from which list each party shall strike off nine (9) names, in the same manner as in striking a jury in



courts of justices of the peace in this state, and in case of the neglect or refusal of either or both parties so to strike, the judge shall strike out the names for either or both. The twelve (12), or in case of a jury of six (6), the six (6) persons whose names remain on said list shall be summoned to attend the trial of the cause wherein they were drawn; and shall constitute the jury unless some of said jurors shall be excused or successfully challenged for cause, in which case the clerk shall successively draw the names of other jurors from the box, until the jury is full, allowing however, to each party, as many peremptory challenges to such additionally drawn jurors as there shall remain, after said first striking, jurors to be drawn. When said drawing shall be finished those jurors last drawn shall be summoned, and if any of the last drawn jurors are excused or successfully challenged, others shall be drawn and summoned in like manner until the jury is full, allowing to each party in each drawing as many peremptory challenges as at said drawing there shall remain jurors to be drawn. No talismen shall be summoned in any cause in said court until the regular panel shall all have been exhausted; after the jury shall be complete, the clerk shall return to the box the names of all persons, except those who constitute the jury as finally struck. The names of those who serve as jurors shall not be returned to the box until all the names in said box are drawn. The persons selected by the judge and aldermen to serve as jurors as aforesaid, shall not again be eligible for one (1) year from their said election; and the failure to select and designate the said jurors at the time herein provided, shall not be available as a cause of challenge to the panel of said jurors, except to a party who shall show himself to be prejudiced thereby.

SEC. 15. Title eighteen (18), of chapter sixty-six (66), of the general statutes of one thousand eight hundred and seventy-eight (1878), relative to trial by referees, title nineteen (19) of the same chapter, relative to exceptions, and title twenty (20) relative to new trials, shall apply to said municipal court; and section four (4) of chapter twenty-seven (27) of the general statutes of one thousand eight hundred and seventy-eight (1878), relating to reporter of the supreme court, and the distribution of supreme court reports, shall apply to the judge of said municipal court; and all causes may be removed from 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 in the discretion of the judge; and chapter eighty-four (84), of the general statutes of one thousand eight hundred and seventy-eight (1878), relative to forcible entries and unlawful detainers, shall apply to said municipal court, and the practice shall be the same in such cases, as near as may be to similar proceedings in justices courts.

SEC. 16. 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, may issue against the goods and chattels of the judgment debtor, returnable within thirty (30) days as in justices courts. The provision for renewals of executions in district court shall apply to this court, except that such renewal shall extend the life of the execution for only thirty (30) days from the date of such renewal, and except that no renewal of such execution shall be made by the clerk until his fee of twenty-five (25) cts. therefor shall have been paid. Every person in whose favor a judgment is rendered in said municipal court, for an amount exceeding five (\$5) dollars besides costs, may upon paying the fee therefor, demand and shall receive from such clerk a transcript of the docket entries of such judgment, duly certified, and may file the same in the office of the clerk of the district court, in and for the county of Blue Earth, 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 transcripts, to the same extent as a judgment of said district court, and shall thereafter be exclusively under the control of said district court, and carried into execution by its process, as if said judgment had been 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 said 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 after the first transcript is issued give to any party applying therefor upon such party paying the clerk's fee therefor a new transcript, and the clerk shall note the record of each transcript given upon such judgment.

SEC. 17. Proceedings against garnishees may be instituted in the same manner as in justices' courts; but the summons may be served either by any officer authorized by this act to serve process or by any person not a party to the action, 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, except that the examination of the garnishee shall be before the acting judge of said court.

SEC. 18. Complaints in criminal cases where the defendant is not in custody, may be made to the judge or clerk in writing, or reduced to writing by the judge or clerk, and sworn to by the complainant, whether the offense charged be a violation of the criminal laws of this state, or of the ordinances, regulations or by-laws of said city; and the clerk shall issue a warrant only upon the order of the judge endorsed upon the complaint, 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 without process, the clerk shall enter upon the records of the court a brief statement of the offense 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 offense may be proved under that plea as well as if formally pleaded. In the examination of offenders charged with indictable offenses, 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 offense may be bound to appear.

SEC. 19. The judge of said court shall receive a salary of one thousand (\$1000) dollars per annum to be paid in monthly installments, on the first Monday of each month by the city treasurer, out of the moneys paid into the city treasury of said city under or by virtue of this act, whether paid into said treasury by the clerk of said court or by the county of Blue Earth, excepting, however, all moneys received by said city treasurer for fines imposed by said municipal court.

*Provided*, That if in any month the said moneys so paid into said treasury shall not be sufficient for the payment of the salary of said judge for said month, said judge may draw the balance of his said month's salary in any month thereafter, when said moneys so paid into said treasury shall be sufficient to pay the balance thereof, after paying the salary of the judge for the month then payable; *Provided [further]*, That no prior judge shall be paid after his term shall have expired any sum for unpaid salary, until the salary then due his successor from the commencement of said successor's term of office shall have been paid in full, and *provided further*, that said city of Mankato, shall not be liable nor holden for the salary of any judge in excess of the amount said judge may draw from the treasury of said city, as provided in this section. The clerk of said court shall receive as salary besides the salary received as city recorder one hundred dollars (\$100) per annum, to be paid by the city of Mankato, out of the treasury of said city in quarterly installments on the first (1st) Monday in April, July, October and January, and the clerk shall receive no other fee or compensation as such clerk for his services, but in all proceedings had in said 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. The clerk shall not enter any judgment in any cause, nor perform any services required of him in any cause as such clerk after the entry of judgment therein until his fees therefor shall have been paid, said clerk shall be liable to the city of Mankato on his bond for all sums accruing to him as fees or costs on any judgment entered by him, or for any services rendered by him in any cause, for any party thereto after the entry of judgment. Said clerk upon ap-

peal to the supreme court shall receive the same fees allowed by law to clerks of the district court for like services.

For any services to be performed by the clerk of this court for which no fee is provided, the judge of said court shall prescribe a fee by rule.

The judge of said court for performing the ceremony of marriage, shall receive the same fee as is allowed to justices of the peace for the same services. In no case shall the municipal judge receive any salary except from fees or costs collected or paid into the city treasury as herein provided. Said judge shall not be entitled to any fee for services in actions, trials or proceedings for disorderly conduct or drunkenness under the ordinances of said city of Mankato, unless said fees are paid or collected.

[Sec. 19. The judge of said court shall receive a salary of one thousand (\$1000) dollars per year, which shall be paid by the city of Mankato, in quarter yearly installments. The clerk of said court shall receive as salary besides the salary received as city recorder, two hundred (\$200) dollars per annum, to be paid by the city of Mankato, out of the treasury of said city in quarterly installments, on the first (1st) Monday in April, July, October and January, and neither the clerk or the judge shall receive any other fee or compensation as such judge or clerk for his services. But in all proceedings had in said 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. The clerk of said court shall receive and collect in all cases except as in this act otherwise provided, the same fees allowed by law to justices of the peace for like services. The said clerk shall not enter any judgment in any cause, nor perform any service required of him in any cause as such clerk after the entry of judgment therein, until his fees therefor have been paid, and said clerk shall be liable to the city of Mankato on his bond, for all sums accruing to him as fees or costs on any judgment entered by him, or for any services rendered by him in any cause for any party thereto after the entry of judgment. Said clerk upon appeals to the supreme court shall receive the same fees allowed by law to clerks of the district court for like services. For any service to be performed by the clerk of this court for which no fee is provided, the judge of said court shall prescribe a fee by rule].

Sec. 20. The judge of said municipal court shall hold no other office created or existing under or by virtue of the laws of the state of Minnesota, or created or existing under the charter, ordinances or by-laws of the city of Mankato; and said municipal judge while holding said office shall have no law partner; but this section shall not apply to the special judge of said court, but when said special judge is acting as judge of said court, his law-partner shall not practice before him.

Sec. 21. The city attorney of the city of Mankato, shall have charge of the prosecution of all criminal cases before said municipal court, wherein the defendant is charged with the violation of the city charter, or any ordinance or by-law of the city of Mankato, and the county attorney of the county of Blue Earth, shall

act in the prosecution or examination of offenders charged with other offenses, when required by law to prosecute in like cases before a justice of the peace.

SEC. 22. At any time after the appointment and qualification of the said municipal judge, either party to any civil cause pending before any justice of the peace of the city of Mankato, may at any time before the trial commences, demand in writing by himself, his agent or attorney, that said cause be transferred to the said municipal court, and upon such party so demanding and paying the justice's costs, said justice shall forthwith transfer said cause together with all papers and a copy of all his docket entries, therein to said municipal court, and said cause shall thereupon be placed upon the calendar of said municipal court, and shall be brought on for trial therein as if originally commenced therein as near as may be; and whenever after the appointment and qualification of said municipal judge, any criminal cause shall be pending before any city justice of the city of Mankato, or when any person shall be brought before such justice for examination, charged with a criminal offense, the prosecuting attorney or the defendant, his agent or attorney, may at any time before the trial or examination commences, demand in writing that said cause or examination be transferred to said municipal court, and the said justice shall thereupon forthwith transfer said cause or examination together with the papers, and a copy of the docket entries therein to the said municipal court, and said municipal court shall proceed to hear and determine said matter, as if the same were regularly commenced therein.

No justice of the peace shall ever be elected after the passage of this act within the city of Mankato. The terms of office of the present justices of the peace, of and within the said city, shall expire on the second (2d) Tuesday in April, in the year one thousand eight hundred and eighty-two (1882), and on or before the second (2d) Tuesday in April, the said justices shall transfer to the said municipal court their dockets, together with all books and papers in their hands as such justices, and all judgments, that shall prior to such transfer have been entered by any such justice, shall be enforced and carried out by said municipal court in the same manner as if the same were originally entered therein as near as may be.

SEC. 23. In all criminal cases tried in said municipal court and in all examinations of persons therein charged with crime, the clerk shall tax as costs and fees, the same fees as are now allowed by law to justices of the peace for like services, and when the said court has final jurisdiction and the defendant is convicted, the clerk shall tax the said costs as part of the costs against the defendant and include the same in the judgment to be entered against him. And in all examinations of persons charged with crime under the laws of this state, and in all trials of criminal cases when the defendant is acquitted, and when he is convicted and does not pay his fine and costs within ninety (90) days after the final determination of said cause, the clerk of said court shall make out an itemized bill of the costs accruing to the clerk in such

case or examination, certified to under his hand and the seal of said court, and said clerk shall file such bill so certified with the city treasurer of the city of Mankato, and the said city treasurer shall at least once in every three (3) months, present all such bills so on file in his office to the county auditor of the county of Blue Earth, who shall upon such presentation file the same in his office, and draw his warrant upon the county treasurer of the county of Blue Earth, for the amount of the bill or bills so presented, in favor of the said city treasurer of the city of Mankato, and the said city treasurer shall present the said warrant to the said county treasurer who shall pay the same.

SEC. 24. Whenever any civil action is pending in the district court of Blue Earth county, of which the municipal court would have jurisdiction such action may be tried by the said municipal court, if the parties so agree and the district judge so orders, and thereupon such action shall be transferred to and tried in said municipal court as though the said action was originally commenced in said municipal court, and for such action so tried and determined by a jury in said municipal court, in which the amount in controversy exceeds one hundred dollars (\$100) the county of Blue Earth shall pay to the city of Mankato, the sum of five (\$5) dollars, and the clerk of said court shall on the first legal day of each month make a list of such causes determined in said court during the month preceding, which shall contain the names of the parties to each cause, the date of the filing of each decision, and the amount in controversy in each case, and certify the same under his hand and the seal of the court, which list so certified, shall be by said clerk filed with the city treasurer of the city of Mankato, and said city treasurer shall at least once in every three (3) months, present all such lists so on file with him, to the county auditor of the county of Blue Earth, who shall file the same in his office and draw his warrant forthwith upon the county treasurer of the county of Blue Earth, for the amount of such list or lists, and the said city treasurer shall present such warrant to the said county treasurer who shall pay the same.

SEC. 25. The plaintiff before the issuing of the summons in any civil action, shall pay to the clerk of said court, to be by him accounted for and paid over to the city of Mankato, a fee of one dollar (\$1) to constitute a part of the salary of the municipal judge as herein provided, and if the plaintiff is successful in the action, he may tax the same as part of his costs against the defendant.

All fines and penalties imposed by said municipal court for a violation of any ordinance of said city, or of any law of this state, shall, when collected, be paid by the clerk of this court into the city treasury and belong to said city of Mankato.

SEC. 26. The clerk of the municipal court shall under the direction of the city council, from time to time procure and furnish all necessary blanks, stationery, record books, and office furniture, for the use of the court and the officers thereof, at the expense of the city of Mankato.

SEC. 27. Immediately after this act shall take effect, the governor of the state of Minnesota, shall appoint one (1) municipa

judge and one (1) special judge of said court, each of whom shall immediately upon his appointment, qualify and enter upon the duties of his office, and hold the same until the second (2d) Tuesday in April, in the year one thousand eight hundred and eighty-two (1882), and until his successor is elected and qualified.

SEC. 28. No summons issued by or out of this court shall be served in any county other than the county of Blue Earth.

SEC. 29. This act shall take effect on the first (1st) Monday of January, in the year of our Lord one thousand eight hundred and eighty-two (1882).

Approved November 22, 1881.

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### CHAPTER 225.

AN ACT TO REPEAL CHAPTER ONE HUNDRED AND FIFTY (150) OF THE SPECIAL LAWS OF ONE THOUSAND EIGHT HUNDRED AND EIGHTY-ONE (1881).

*Be it enacted by the Legislature of the State of Minnesota:*

SECTION 1. That chapter one hundred and fifty (150) of the special laws of one thousand eight hundred and eighty-one (1881) being an act to detach certain territory from common school district twenty-two (22) and attach the same to district fifteen (15) in Rice county, be, and the same is hereby repealed.

SEC. 2. This act shall take effect and be in force from and after its passage.

Approved November 22, 1881.

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### CHAPTER 226.

AN ACT TO REPEAL SECTION THREE (3), OF CHAPTER THREE HUNDRED AND NINE (309), OF SPECIAL LAWS OF A. D. 1879, RELATING TO THE SALARY, FEES AND COMPENSATION OF COUNTY OFFICERS IN THE COUNTY OF WINONA.

*Be it enacted by the Legislature of the State of Minnesota:*

SECTION 1. That section three (3), of chapter three hundred and nine (309), of the special laws of A. D. 1879, be and the same is hereby repealed.

SEC. 2. This act shall take effect and be in force from and after its passage.

Approved November 22, 1881.